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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 665]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 665 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period December 25, 1987 through December 31, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such oranges during the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation 665 (§ 907.965) is effective for the period December 25, 1987, through December 31, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2528–S, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987–88 adopted by the Navel Orange Administrative Committee (Committee). The Committee met publicly on December 22, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 8 to 3 vote, a quantity of navel oranges deemed advisable to be handled during the specified week. The Committee reports that the market for navel oranges is fair.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 day after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessay to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and view on the regulation at an open meeting. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. The authority citiation for 7 CFR Part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.965 is added to read as follows:

§ 907.965 Navel Orange Regulation 665.

The quantity of navel oranges grown in California and Arizona which may be handled during the period December 25, 1987, through December 31, 1987, are established as follows:

(a) District 1: 1,020,000 cartons;
(b) District 2: 108,000 cartons;
(c) District 3: 60,000 cartons;
(d) District 4: 12,000 cartons.

Dated: December 23, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–29766 Filed 12–24–87; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Regulation 593]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 593 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 250,000 cartons during the period December 27, 1987, through January 2, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 593 (§ 910.893) is effective for the period December 27, 1987, through January 2, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2534, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended 7 CFR Part 910 regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will not tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987–88. The committee met publicly on December 22, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a 12 to 0 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the demand for lemons remains easier with lessened demand due to incumbent weather in the eastern states.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice, and engage in further public procedures with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.893 is added to read as follows:

§ 910.893 Lemon Regulation 593.

The quantity of lemons grown in California and Arizona which may be handled during the period December 27, 1987, through January 2, 1988, is established at 250,000 cartons.

Dated: December 23, 1987.

Robert C. Kenney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–29765 Filed 12–24–87; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 1002 and 1004

[Docket Nos. A0–160–A62 and A0–71–A74]

Milk in the Middle Atlantic and New York-New Jersey Marketing Areas; Order Amending the Orders Withdrawn

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule withdrawn.

SUMMARY: This action withdraws an order amending the Middle Atlantic and New York-New Jersey milk orders which was to become effective December 1, 1985. The action stems from a recent decision of the Third Circuit Court of Appeals affirming the order of the U.S. District Court for the Eastern District of Pennsylvania which enjoined the Secretary of Agriculture from implementing amendments to the above-mentioned orders.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued June 17, 1983; published June 23, 1983 (48 FR 28655).

Recommended Decision: Issued March 5, 1985; published March 11, 1985 (50 FR 9637).

Extension of time for filing exceptions: Issued April 5, 1985; published April 10, 1985 (50 FR 14110).

Final Decision: Issued August 9, 1985; published August 14, 1985 (50 FR 32716).

Final Order: Issued October 29, 1985; published November 1, 1985 (50 FR 45595).

Suspension of effective date of Final Order: Issued November 27, 1985; published December 4, 1985 (50 FR 49674).

This document is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and withdraws the order amending the orders regulating the handling of milk in the aforesaid marketing areas.

Basis for Withdrawing Final Rule

1. On October 29, 1985 (50 FR 45595) the Deputy Assistant Secretary, Marketing and Inspection Services issued an order amending the two aforesaid orders. The amending order was to become effective on December 1,

1985, and would have expanded the marketing areas of the two orders and revised each order's location adjustment provisions.

2. On November 22, 1985, the U.S. District Court for the Eastern District of Pennsylvania issued, on the basis of a civil action before it, a preliminary injunction restraining the Secretary from implementing the order amending the two orders. Shortly thereafter, the Department suspended the December 1, 1985, effective date of the order amending the two aforesaid orders that were issued on October 29, 1985 (50 FR 45595) until further notice.

3. On July 17, 1986, the U.S. District Court granted the plaintiffs' request for a permanent injunction enjoining the Secretary from implementing the order amending the two orders.

4. The Secretary appealed the U.S. District Court's ruling to the United States Court of Appeals for the Third Circuit. Thereafter, on September 21, 1987, the Third Circuit Court of Appeals affirmed the decision of the District Court which permanently enjoined the Secretary from implementing the order amending the two orders.

List of Subjects in 7 CFR Parts 1004 and 1002

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that on the basis of the Third Circuit Court of Appeals' September 21, 1987, decision, the order amending the aforesaid orders that was to be effective December 1, 1985 (50 FR 45595), is hereby withdrawn.

The authority citation for Parts 1004 and 1002 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

Signed at Washington, DC on: December 17, 1987.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 87–29592 Filed 12–24–87; 8:45 am]

BILLING CODE 3410–01–M

Rural Electrification Administration

7 CFR Part 1736

Electric Standards and Specifications

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby revises 7 CFR Chapter XVII, REA Regulations, Part 1736, Electric Standards and Specifications, by revising REA Bulletin 50–70(U–1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable. This bulletin contains the REA material specifications for underground power cable. The primary changes resulting from this revision are: (1) Removing all high molecular weight polyethylene as an acceptable insulating material; (2) increasing the minimum average insulation layer thickness from 175 to 220 mils for 15 kilovolt (kV) cable and from 260 to 345 mils for 25 kV cable; (3) requiring the application of an electrically insulating outer jacket on all such cables; and (4) modifying the present requirement to test each reel of cable produced to detect excessive partial discharge.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Dedman, Electrical Engineer, Electric Staff Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone (202) 382–9091.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.), REA is revising 7 CFR Chapter XVII, REA Regulations, Part 1736, Electric Standards and Specifications, by revising REA Bulletin 50–70(U–1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable.

This action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and, therefore, has been determined to be "not major."

REA has concluded that promulgation of this rule will not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This regulation contains no information or recordkeeping requirements which require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.). This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule **Federal Register** notice related to 7 CFR Part 3015, Subpart V, in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Background

REA maintains a system of bulletins that contains construction standards and specifications for materials and equipment which are applicable to electric system facilities constructed by REA electric borrowers in accordance with the REA loan contract. These standards and specifications contain standard construction units and material and equipment items commonly used in REA electric and telephone borrowers' systems.

REA Bulletin 50–70(U–1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable, contains REA's requirements relative to the purchase of underground power cables by REA electric borrowers. The requirements in Bulletin 50–70(U–1) are minimum requirements and are based primarily on specifications of national standards setting organizations such as the Association of Edison Illuminating Companies (AEIC) and the Insulated Cable Engineers Association (ICEA). Bulletin 50–70(U–1) was last revised in 1984.

In recent years, cables purchased and installed by many REA electric borrowers have failed long before the end of the anticipated life of the cables. Since these prematurely failed cables were designed and manufactured in accordance with Bulletin 50–70(U–1) and the referenced national standards, REA has concluded that Bulletin 50–70(U–1) should be revised to exceed some requirements of the national standards.

The primary cause of underground cable failures is the formation and growth of electrochemical "trees" in the insulation layer of the cables. The tree-like voids usually form at impurities or voids in the insulation material. The growth of the trees is accelerated by moisture in the insulation layer and high voltage stress.

High molecular weight polyethylene (HMW) insulated cables have performed very poorly regarding failure due to trees. All manufacturers of underground cable have ceased production of cables insulated with HMW not containing tree-retardant additives. In 1986, REA removed HMW cables from REA Bulletin 43–5, List of Materials Acceptable for Use on Systems of REA Electrification Borrowers. REA has learned that each

manufacturer presently listed in Bulletin 43–5 for cable insulated with HMW with the tree-retardant additives (HMW–TR) recommends against its use. REA believes that the removal of all HMW insulated cable (including HMW–TR) from Bulletin 50–7(U–1) is certainly justified.

The voltage stress (measured in volts per mil) on the insulation of underground cable is a function of the voltage present and the thickness of the insulation layer (in mils). Increasing the thickness of the insulation wall will decrease the voltage stress and, therefore, retard the growth of trees in the insulation layer. Presently, Bulletin 50–70(U–1) requires the average thickness of the insulation layer to be at least as large as 175 mils for cables used on systems rated at 15 kilovolts (kV) and 260 mils for 25 kV systems. This action increases the minimum wall thickness to 220 mils for 15 kV systems and 345 mils for 25 kV systems.

The cables used on systems of REA electric borrowers are almost always buried in direct contact with the earth. They are, therefore, in constant contact with moisture, a major contributing factor in the growth of trees. Bulletin 50–70(U–1) presently allows, but does not require, the application of an electrically insulating jacket as an outer protective covering on underground cables. The jacket provides mechanical protection which decreases the likelihood of physical damage and moisture contact with the insulation layer within. Therefore, this action revises Bulletin 50–70(U–1) to require insulating jackets on all underground power cable.

The national standards and Bulletin 50–70(U–1) require manufacturers of underground cable to test each reel of cable to detect excessive partial discharge which could damage the insulation layer. REA revises its requirement to allow an alternate procedure under which a manufacturer could demonstrate to REA's satisfaction that the manufacturer can produce cables without excessive partial discharge and that its insulation material is sufficiently resistant to damage caused by excessive partial discharge, should it occur. Testing for resistance to partial discharge will be required periodically on cable produced by the manufacturer.

Numerous other changes, which are more minor or clerical in nature, are included in this action.

Comments

On August 10, 1987, REA published a Proposed Rule notice to revise 7 CFR Chapter XVII, Part 1736 by revising Bulletin 50–70(U–1). In the Proposed Rule notice, REA invited interested parties to file comments on or before October 9, 1987. Although some comments were received after that date, all responses received have been considered in preparing this Final Rule.

Sixty different organizations or groups commented on the Proposed Rule. They are:

1. Public Utility District No. 1 of Douglas County, Washington
2. Dalager Engineering Company
3. Cablec Corporation
4. Orville W. Zastrow, Consulting Engineer
5. Conductor Products, Inc.
6. Wisconsin Electric Cooperative Association
7. Tillamook People's Utility District
8. KBM, Inc.
9. Nodak Rural Electric Cooperative, Inc.
10. Lower Valley Power & Light, Inc.
11. Top O'Michigan Rural Electric Company (two responses)
12. CamWal Electric Cooperative, Inc.
13. Green River Electric Cooperative, Inc.
14. Pirelli Cable Corporation (two responses)
15. Hendrix Wire & Cable
16. Mille Lacs Electric Cooperative
17. Tarheel Electric Membership Association, Inc.
18. Wild Rice Electric Cooperative, Inc.
19. Slope Electric Cooperative, Inc.
20. James Valley Electric Cooperative, Inc.
21. Burke—Divide Electric Cooperative, Inc.
22. Union Carbide Corporation
23. Capital Electric Cooperative, Inc.
24. North Central Electric Cooperative, Inc.
25. Martin and Associates, Inc.
26. Verendrye Electric Cooperative, Inc.
27. Georgia Electric Membership Corporation
28. North Itasca Electric Co–op, Inc.
30. Joslyn Corporation
31. North Star Electric Cooperative, Inc.
32. Oliver—Mercer Electric Cooperative, Inc.
33. Northeast Nebraska Rural Public Power District
34. Red Lake Electric Cooperative, Inc.
35. McKenzie Electric Cooperative, Inc.
36. Meeker Cooperative Light & Power Association
37. Anoka Electric Cooperative
38. Dairyland Electric Co-op, Inc.
39. McLean Engineering Company, Inc.
40. McLean Electric Co-operative, Inc.
41. Reynolds Aluminum
42. SSR, Inc. Engineers
43. The Smoky Hill Electric Cooperative Association, Inc.
44. The Okonite Company
45. Allied Tube & Conduit
46. RTE Corporation
47. The Kerite Company
48. East Mississippi Electric Power Association
49. Cavalier Rural Electric Cooperative, Inc.
50. Itasca—Mantrap Co-op. Electrical Association
51. Cobb Electric Membership Corporation
52. Mid Carolina Electric Cooperative
53. Mor-Gran-Sou Electric Cooperative, Inc.
54. Ulteig Engineers, Inc.
55. Star Services Federation
56. Twin Valleys Public Power District
57. Palmetto Electric Cooperative, Inc.
58. Southern Engineering Company
59. Insulated Cable Engineers Association (ICEA)
60. Agralite Cooperative

For the purposes of discussion, the negative comments of these organizations have been categorized.

Conductor: Two organizations recommended inclusion of three-quarter hard aluminum temper, H16 or H26, as an acceptable material for solid aluminum conductors. The major drawback to using harder temper solid conductor has been decreased flexibility. However, since Bulletin 50–70(U–1) is being revised to require a thicker insulation layer and an outer jacket, the decrease in flexibility should be negligible at most. REA accepts the suggested change.

Two organizations recommended requiring, not just allowing, the use of material to fill the interstices (gaps) between the strands of stranded conductor. Strand fillers are designed to prevent the longitudinal migration, along the conductor, of moisture which may enter the conductor due to dig-in or natural migration from the outside. Although REA recognizes that strand fillers will prevent some damaging moisture from reaching the cable insulation layer, it is felt that its use should be recommended, not required.

Conductor Shield: A change has been made in this revision of Bulletin 50–70(U–1) to allow the use of insulating conductor shield (stress control layer) in addition to the semi-conducting shield required in the existing edition of the bulletin. Three organizations have objected to this change. The cable specifications of ICEA allow either insulating or semi-conducting conductor shields, so REA feels that this comment should not be accepted.

Bulletin 50–70(U–1), as proposed, would allow the use of an insulating or semi-conducting separator tape between the conductor and the conductor shield. Two commenters recommended allowing only semi-conducting tape, while three commenters recommended not allowing any separator tape. REA has accepted the second comment, and has removed any mention of separator tape from the bulletin. Some people feel that the separator tape allows moisture to enter the space between the tape and the conductor. Separator tapes are generally used only with large conductors (1,250 kcmil and larger). Since the bulletin covers only conductors up to 1,000 kcmil, the use of separator tapes is not justified.

Insulation: Seven organizations recommended removing tree retardant high molecular weight polyethylene (HMW–TR) as an acceptable insulation

material. Four organizations recommended removing cross-linked polyethylene (XLP) without tree retardant additives. REA has removed HMW-TR, but not XLP. Each of the three cable manufacturers presently listed as manufacturers of HMW-TR cable no longer recommends the use of HMW-TR insulation. Therefore, REA has removed it from REA Bulletin 43-5 and from Bulletin 50-70(U-1). REA feels that insufficient data exists on failures of XLP insulated cables to justify its removal. Since the thickness of the insulation is increased and the use of a jacket is required by this action, the performance of XLP cable should be quite acceptable. Also, tree retardant XLP cable has not been in use for a sufficient length of time to justify its being the only accepted polyethylene insulation material.

Insulation Thickness: Some organizations have objected to REA's increasing the minimum average thickness of the insulation layer. The objections concerned several operational difficulties:

1. Borrowers will need to carry two sets of cable accessories in store rooms and on repair trucks.

2. Repair crews may have difficulty identifying the size of insulation on failed cables.

3. Borrowers have in stock supplies of cable and accessories in accordance with the former edition of Bulletin 50-70(U-1).

Other organizations have commented that increased insulation thicknesses are not necessary if quality insulation materials and workmanship and jackets are used.

Although REA recognizes that some minor, temporary operational difficulties may result from this change, the obvious benefits resulting from decreasing the voltage stress on the cable insulation outweigh the drawbacks. Several borrowers have converted to cables with increased insulation thicknesses with no major difficulty. Borrowers will be allowed to use cables with the thinner insulation walls until existing stocks are depleted. Of course, a supply of the older cable and accessories will be retained for future repairs.

The minimum average insulation thickness included in the proposed revision of Bulletin 50-70(U-1) were 220 mils for 15 kV cable and 320 mils for 25 kV cable. Eleven organizations objected to these minimum values for two major reasons. First, some commenters have used 260 mil thick insulation on their 15 kV cable and want to continue this practice. Since 220 mils is the *minimum* average thickness, the insulation thickness of 15 kV cable may be increased to a maximum of 260 mils. Secondly, several commenters object to the use of 320 mils, instead of the more commonly used 345 mils, for 25 kV cable. REA has accepted this comment since 345 is more commonly used and since it is the increased thickness specified by ICEA.

Insulation Shield: Four organizations commented that the listing of acceptable insulation shield materials in the proposed specification was unclear. Four semi-conducting materials were included: thermoplastic polyethylene, deformation resistant thermoplastic polyethylene, cross-linked polyethylene, and ethylene propylene rubber. Since REA has removed all high molecular weight (thermoplastic) polyethylene as acceptable insulation material, inclusion of the two types of thermoplastic polyethylene insulation shields is no longer necessary. The other two materials are actually thermosetting semi-conducting polymers, one of which is based upon cross-linked polyethylene while the other is based upon ethylene propylene rubber. The insulation shield material must be compatible with, but not necessarily the same material as, the insulation material. Therefore, in order to clarify this section, REA will require "a semi-conducting thermosetting (cross-linked polyethylene or ethylene propylene rubber) polymeric layer."

Manufacturing Process: The proposed revision added a requirement that the conductor shield, insulation, and insulation shield shall be extruded onto the conductor in one continuous manufacturing process (triple extrusion process). The triple extrusion process, a relatively recent development in cable manufacturing, is intended to make two primary improvements in cable quality. First, since the three layers are extruded in one pass through the manufacturing process, there is less opportunity for contaminants to appear between the insulation shield and insulation. Also, since the thermosetting insulation and insulation shield layers are cured at the same time, the adhesion between those two layers is increased. Poor adhesion (and voids) between the two layers can cause partial discharge (corona) which can damage insulation materials.

REA agrees that increased cleanliness and insulation shield adhesion are desirable qualities. However, we are aware that manufacturers which do not use the triple extrusion process have produced quality cable for many years by taking care to ensure cleanliness between the two extrusions and by using corona resistant insulation materials. (Note: Before being listed in REA Bulletin 43-5, each manufacturer must demonstrate that its cable passes the partial discharge test in the AEIC cable specification.) Therefore, REA has determined that, although use of the triple extrusion manufacturing process is desirable, sufficient justification does not exist to require its use.

Concentric Neutral: Several organizations commented that the minimum number of concentric neutral wires required by Bulletin 50-70(U-1) is not sufficient when an insulating overall outer jacket is applied. REA agrees with this requirement and has adopted the requirement in the ICEA specifications. Jacketed cable operated on single-phase systems shall have a full neutral as described in the ICEA specifications and cable operated on three-phase systems shall have at least a one-third neutral as per ICEA.

Overall Outer Jacket: The previous edition of Bulletin 50-70(U-1) allowed, but did not require, the application of an electrically insulating outer jacket over the concentric neutral wires. The proposed revision of the bulletin requires the jacket. Twenty-five organizations commented that jackets should not be required for several various reasons.

Most of the commenters reported that they have experienced little or no corrosion of the concentric neutral wires. The jacket is intended to serve many purposes, only one of which is corrosion mitigation. The jacket provides significant mechanical protection to the insulation shield and the underlying insulation layer. Also, the jacket delays moisture from reaching and damaging the insulation layer.

Others commented that jacketed cable is difficult to terminate and ground. Many borrowers have successfully terminated jacketed cable for many years. REA will soon consider for listing in Bulletin 43-5 products, manufactured by several companies, which are used to ground the concentric neutral wires and reseal the jacket. Other organizations have commented that the premium cost (approximately 10-15% more than non-jacketed cable) of jacketed cable is not justified. REA believes that the several benefits of jacketed cable will increase the useful life (and decrease costs due to repairs, lost revenues, etc.) of the cable. The value of the added life outweighs the increased cost of the jacket.

Some organizations expressed concern that rodents, such as gophers, will gnaw through the jacket material. A small hole in the jacket will allow moisture to enter. This moisture can damage the insulation layer and cause severe localized corrosion of the concentric neutral wires. A borrower which can provide sufficient written

justification to REA that the underground cable on its system is subject to rodent damage may request, from its REA area office, a waiver of the requirement that a jacket must be used.

One organization expressed an opinion that an insulating jacket will make adequate grounding of the neutrals more difficult to achieve, especially on systems which experience grounding difficulties due to the nature of the soil. Inadequate grounding can cause unsafe conditions. The neutral on jacketed underground cable is electrically similar to the neutral on overhead lines. The National Electrical Safety Code requires that multiple grounded systems, like those on REA borrower systems, must be "effectively grounded." In some locations, it may be necessary to install an array of multiple ground rods, or longer rods, at each grounding point. There also may be locations where especially high earth resistivity and/or rock make the use of cables with bare concentric neutrals desirable. In such situations REA will consider requests for waiver of the jacketing requirement.

Because of the general advantages of jacketed cable, REA retains its requirement that underground cables have an insulating jacket applied over the concentric neutral wires.

Two organizations have commented that REA should require that separator tapes not be allowed between the jacket and the concentric neutral wires. REA agrees that the jacket should encapsulate the neutral wires, leaving no voids. If a separator tape is used, the space between the individual neutral wires is open, allowing any moisture which may enter the gap to easily migrate longitudinally under the jacket. Therefore, Bulletin 50–70(U–1) will not allow the use of such separator tapes.

(Note: The encapsulated neutral wires must remain in intimate contact with the underlying insulation shield.)

Tests: Some organizations have commented that the list of AEIC qualification tests included in Bulletin 50–70(U–1) should be revised to match the tests required in the AEIC specifications which have been revised recently, but not yet printed. REA has accepted this comment and will require compliance with the production sampling tests and qualifications tests in the new AEIC specifications.

Partial Discharge Test: The AEIC specifications and the existing edition of REA Bulletin 50–70(U–1) require manufacturers to pass a partial discharge (corona) test as a qualification test and to test each reel of cable for excessive partial discharge before it is shipped. This test is intended to detect voids in the insulation layer or between the insulation layer and the shield layers. Corona can form in the voids, causing damage to most insulation materials. However, REA has been made aware that some cable is being manufactured with insulation material which is resistant to the effects of partial discharge. In the proposed revision of Bulletin 50–70(U–1), REA included an alternative procedure under which manufacturers which had passed the partial discharge qualification test could opt to perform the discharge resistance (U-bend) test, as described in ICEA specifications, on each manufacturing run of cable instead of performing the partial discharge test on each reel of cable. Some organizations commented that the option should not be allowed since the ICEA discharge resistance test is intended to apply to unshielded lower voltage cables only.

REA believes that, although the finished cables produced under Bulletin 50–70(U–1) are shielded, the U-Bend discharge resistance test is an acceptable test to assess the ability of an insulation material to resist the harmful effects of partial discharge. Therefore, REA has retained the optional procedure, with some clarification of the test procedures, described in the proposed revision. REA believes that most cable manufacturers will continue to test each reel of cable in accordance with the AEIC partial discharge test requirement.

Jacket Tests: Bulletin 50–70(U–1) requires a Cold Bend Test to be performed on "each length of jacketed cable shipped." Commenters have indicated that this testing frequency is unnecessary. REA agrees with this comment and has changed the testing frequency to "one test for each 50,000 feet of cable, or major fraction thereof, or at least once per jacket extruder run."

Cable Markings: Some organizations have suggested REA require the application of three red stripes running along the cable jacket, equally spaced around the jacket, to identify it as an electric power cable. REA realizes that red has been accepted as the standard color used to identify electric facilities and that some utilities, including some REA borrowers, have purchased jacketed cable with red stripes (or totally red jackets). However, REA also has been made aware that some questions exist concerning the possible adverse effects the red striping material may have on the quality of the jacket. Therefore, REA does not believe that sufficient information is available to justify requiring red stripes on jacketed cable.

Some organizations have suggested that REA should require a durable label to be attached to each reel of cable identifying the purchaser, cable description, number of feet of cable on the reel and weight of the reel. REA believes that this suggestion is reasonable and has accepted it.

Favorable Comments: The large number of comments received as a result of the proposed revision should not be misconstrued as general dissatisfaction with the proposed revision. Of the 60 responses to the proposed revision, several expressed complete satisfaction with the proposal. These generally were cable manufacturers or REA electric borrowers which already have used, with success, cable which exceeds the present minimum requirements. Concerning the requirement of an overall outer jacket, which produced the largest number of negative comments, some cable manufacturers commented that this change will have a greater positive impact on the quality of underground cable than any other change REA could make.

Also, it should be pointed out that copies of the proposed revision and proposed rule **Federal Register** notice were sent to approximately 1,100 organizations, including each electric borrower. REA believes that the fact that only 60 organizations responded indicates that no general dissatisfaction exists with this action.

List of Subjects in 7 CFR Part 1736

Electric utilities, Engineering standards, Incorporation by reference.

In view of the above, REA hereby amends 7 CFR Part 1736.

PART 1736—ELECTRIC STANDARDS AND SPECIFICATIONS

1. The authority citation for Part 1736 continues to read as follows:

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

2. In § 1736.97, paragraph (b) is amended by revising the entry for Bulletin 50–70(U–1) to read as follows:

§ 1736.97 Incorporation by reference of electric standards and specifications.

* * * * *

(b) *List of Bulletins.*

* * * * *

Bulletin 50–70(U–1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable (December 22, 1987)

* * * * *

Dated: December 22, 1987.

Harold V. Hunter,

Administrator.

[FR Doc. 87–29678 Filed 12–24–87; 9:13 am]

BILLING CODE 3410–15–M

Farmers Home Administration

7 CFR Part 1924

Construction and Repair; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: FmHA corrects a final rule published March 13, 1987, (52 FR 7998). The reference to Appendices C and F of HUD Handbook 4910.1, Minimum Property Standards for Housing was not changed to Appendices C through F of HUD Handbook 4910.1, Minimum Property Standards. The reference to paragraph XI of Exhibit B of Subpart A of Part 1924 was not changed to paragraph X of Exhibit B of Subpart A of Part 1924. The intent of this action is to correct these errors.

FOR FURTHER INFORMATION CONTACT: Keith Suerdick, Architect, Program Support Staff, Farmers Home Administration, USDA, Room 6309, South Agriculture Building, Washington, DC 20250. Telephone (202) 382–9619.

SUPPLEMENTARY INFORMATION: The following corrections are made to 52 FR on pages 8004 and 8005 dated March 13, 1987:

PART 1924—CONSTRUCTION AND REPAIR

§ 1924.5 [Corrected]

1. Section 1924.5(d)(1) is corrected by changing the words "Appendices C and F" to "Appendices C through F."

2. Section 1924.5(d)(3) is amended by changing the reference "paragraph XI" to "paragraph X."

Dated: December 17, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–29677 Filed 12–24–87; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[Order No. 1244–87]

Mariel Cuban Parole Determinations

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule establishes a separate immigration parole review process for certain detained, excludable nationals of Cuba who came to the United States during the 1980 Mariel Cuban boatlift. It permits a comprehensive and fair review of the cases of excludable Mariel boatlift participants, detained pursuant to the authority of the Immigration and Nationality Act, for parole consideration. The effect of this rule is to establish several levels of review to determine whether certain detained, excludable Mariel Cubans should be paroled, and to set forth the procedures governing such parole decisions. It establishes a new Departmental Release Review Program under the general supervision of the Associate Attorney General, which will provide eligible aliens, otherwise denied parole, with an additional review.

EFFECTIVE DATE: Final rule effective December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Donald A. Couvillon, Attorney, Office of Immigration Litigation, Civil Division, telephone (202) 272–4397; or Craig Raynsford, Attorney, Office of the General Counsel, Immigration and Naturalization Service, telephone (202) 633–2895.

SUPPLEMENTARY INFORMATION:

General Background

Between the months of April and October of 1980 approximately 125,000 Cuban nationals without appropriate entry documentation arrived on the shores of the United States as a consequence of what has become known as the Mariel boatlift. Cuban government authorities inserted numerous hardened criminals and other undesirable aliens among the vast majority of peaceful, productive and law-abiding Cubans who came here as a result of the boatlift. Despite being hampered by incomplete information respecting the then newly arriving aliens, the United States attempted to identify those individuals whose release might present unacceptable risks to members of the American public and to return these aliens to Cuba. The Government of Cuba, however, refused to accept the repatriation of those found to be excludable from the United States.

Subsequent to the boatlift, several unsuccessful attempts were made to reach an agreement between the United States and Cuba on immigration matters. Finally, on December 14, 1984, the United States and Cuba entered into a bilateral migration agreement ("migration agreement"), which provides for normalized immigration between the two countries, and includes Cuba's agreement to accept the return of certain Mariel Cubans ordered excluded by the United States. The migration agreement, however, limits the United States to returning an average of only one hundred excluded aliens to Cuba per month. In May of 1985, not long after it took effect, the migration agreement was unilaterally suspended by the Government of Cuba. On November 20, 1987, however, the United States and Cuba announced the immediate reinstatement of the migration agreement of December 14, 1984, in all of its aspects.

The unprecedented arrival of the 125,000 Cuban nationals on our shores in 1980, and Cuba's initial refusal to accept repatriation of those ordered excluded under our immigration laws, created a situation of a magnitude that has never before existed in the immigration history of the United States. In response to this situation, and at a time prior to late 1984 when the repatriation of a Mariel excludable was not practicable, the Attorney General created a parole program for detained Mariel Cubans, namely, the Attorney General's Status Review Plan. That Status Review Plan was intended to balance the need to protect the American public from potentially dangerous aliens with the humanitarian problems created by Cuba's unjustified refusal to accept repatriation and the associated prospects for long-term confinement that faced excludable but unreturnable Mariel Cubans. With the original signing of the migration agreement in 1984, the Attorney General's Status Review Plan was terminated and actual deportations to Cuba were commenced. After the termination of the Status Review Plan, parole for Mariel Cubans was available only under the general regulatory authority of the District Directors of the Immigration and Naturalization Service (hereinafter referred to as the "Service").

As indicated earlier, in May of 1985, implementation of the migration agreement was unilaterally suspended by the Government of Cuba.

Accordingly, the renewed inability to repatriate detained, excludable Cubans caused a significant increase in the number of such criminals within the custody of the Service. Recognizing the need for another comprehensive parole review procedure, the Commissioner of the Immigration and Naturalization Service approved the establishment of a new Cuban Review Plan on May 25, 1987. The Cuban Review Plan has provided for a nationwide review of the cases of Mariel Cuban criminals in the custody of the Service for parole consideration, and has enabled many of those individuals approved for parole to be relocated to either halfway house placements or approved family units. Where upon review it was determined that an individual was not acceptable for parole, another opportunity for review has existed on an annual basis. Over the years, under the various parole mechanisms adopted to address the unique circumstances presented by the Mariel Cubans, eventually all but approximately 100 to 150 of these individuals were paroled into our society. Many paroled aliens, however, have committed crimes in the United States and have had their immigration parole revoked. Currently, there are approximately 7,600 Mariel boatlift participants who either are detained under the authority of our immigration laws or are serving criminal sentences in Federal, State, and local prisons.

The reinstatement of the migration agreement, and the disturbances at the Oakdale, Louisiana and Atlanta, Georgia institutions, have again focused the attention of the nation on the issues associated with the deportation or release on parole of detained Mariel excludables. In this light, it has been determined that, in addition to the current Cuban Review Plan administered by the Service, a Departmental Release Review Program will be established. These procedures in combination will ensure a thorough and fair parole review for each eligible detainee. Administered by the Associate Attorney General, the Departmental Program will review only those cases where parole has been denied by the Cuban Review Plan within the Service. In addition, a separate review mechanism is being established to look at the cases of those detainees who are likely candidates for deportation. An informational notice describing that program is being published separately. A detainee who is selected and approved for repatriation will not be entitled to a determination respecting release on parole under the procedures being established here.

Discussion of Specific Provisions

This regulation makes changes to 8 CFR Part 212 by incorporating distinct procedures for the parole review process in relation to Mariel Cubans.

In section 212(d)(5) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(d)(5), Congress vested in the Attorney General broad discretion to parole into the United States an alien seeking admission, under any conditions as he may prescribe, for emergent reasons or for reasons deemed strictly in the public interest. Sections 212.12 and 212.13 of this new rule establish procedures for the exercise of the Attorney General's discretion to parole which will be applicable to the unusual circumstances presented by the Mariel Cubans. Section 212.12 incorporates with some modifications an on-going procedure within the Service which will result in periodic reviews of detained Mariel Cubans for possible parole. Section 212.13, on the other hand, establishes a new Departmental Release Review Program which will undertake a one-time, single level of further review by Departmental Panels composed of certain designated officials of the Department of Justice. Under both sections, the ultimate determination whether to grant or deny parole will be made in the exercise of the Attorney General's discretion under the Act. The Departmental Panel's determination to either grant or deny parole will result from an independent evaluation of each case. In keeping with its regular responsibilities under our immigration laws, the Service will retain the responsibility for the overall implementation of the parole program, including revocation of parole for violation of its conditions, execution of orders of exclusion or commencement of proceedings, or adjustments to meet unforeseen or changed circumstances.

New § 212.12. The scope of the Service's Cuban Review Plan is described in § 212.12(a). As stated therein, the new procedures apply to any Mariel Cuban, as defined, in the custody of the Service or who is detained anywhere in the United States pursuant to the authority of the Act. The Mariel boatlift took place approximately between April and October of 1980. The regulatory definition for a Mariel Cuban covers a time period for arrival in the United States from April 15, 1980, to October 20, 1980. This ensures as complete coverage as possible of boatlift participants, recognizing that there may have been departures from Cuba prior to the April 20, 1980, opening of the Port of Mariel as an embarkation point by Cuban authorities, and that aliens continued to arrive in the United States well after the September 26, 1980, closing of Mariel harbor by Cuban authorities. The Service's Plan does not apply to a Mariel Cuban who is still serving a sentence imposed pursuant to a criminal conviction, regardless of whether the Service has placed a detainer on the alien, until and unless his parole is revoked *after* he completes his criminal sentence and actually is taken into Service custody. Notwithstanding the establishment of these parole procedures, an excludable Mariel Cuban may be deported from the United States and repatriated to Cuba without first receiving a parole review under this rule.

In § 212.12(b) there is a delegation of the Attorney General's authority to the Commissioner and the Associate Commissioner for Enforcement (Associate Commissioner) who will possess the full discretion vested in the Attorney General pursuant to section 212(d)(5) of the Act. For effective day-to-day operation, the Associate Commissioner may in turn delegate in writing his powers to persons under his supervision. Under § 212.12(c), the Associate Commissioner will appoint a Director of the Cuban Review Plan who will administer the Cuban Review Plan. In § 212.12(d)(1), the rule provides that the Director shall designate Cuban Review Panels whose function is to make parole recommendations to the Associate Commissioner.

Set forth in § 212.12(d) are the criteria for the Panel's review and the factors, such as likelihood to engage in future acts of violence or likelihood to engage in future criminal activity, which the Panel should weigh in considering whether to recommend further detention or release on parole in each individual case. This parole recommendation process is also to take into account the roots an alien may have here in the United States by looking at such things as his family ties, and the danger that the alien will abscond, such as from any sponsorship program designed to assist his integration into society. The traditional considerations in most parole determinations (see 8 CFR 212.5) are appropriate here for obvious reasons. The procedures for Panel review include a review of the detainee's file, and possibly an interview of the detainee by the Panel. In addition, the detainee may submit to the Panel any information which he believes demonstrates that he should be released on parole. Finally, § 212.12(d)(4)(iii) provides that the Panel will forward to the Associate Commissioner a written

recommendation either for or against parole.

Upon receipt of the Panel's recommendation, the Associate Commissioner shall determine whether to grant parole consistent with the delegation of discretionary authority. In this regard, it is important to note that the Associate Commissioner is not bound by the Panel or Director's findings pursuant to § 212.12(d)(2) or constrained by the factors which the Panel should consider and weigh as set forth in § 212.12(d)(3). Rather, the Associate Commissioner retains the full statutory authority in § 212(d)(5) of the Act. While the Panel's recommendation is designed to serve as an important guide to the exercise of discretion, the Associate Commissioner must also take into consideration changes in foreign and domestic affairs, the availability of fiscal as well as other resources, public policy and humanitarian concerns, and other factors which could weigh for or against the decision in an individual case. The Associate Commissioner must be free to assess all of the circumstances in arriving at his final determination to grant parole to a detained Mariel Cuban for emergent reasons or for reasons deemed strictly in the public interest.

In § 212.12(e), there is an admonition that a detainee approved for parole must maintain proper behavior while awaiting suitable sponsorship or placement, or his parole may be revoked. The Associate Commissioner must be free to withdraw his grant of parole to a detainee who exhibits behavior inconsistent with the determination to release him into the American community. Moreover, while it is well settled in the criminal context that a grant of discretionary parole can be revoked without additional procedural steps prior to release, this paragraph puts the detainee on notice.

The requirements of suitable sponsorships and placements are outlined in § 212.12(f), which also reiterates that no detainee will be released absent a suitable sponsorship or placement and that the parolee must abide by the parole conditions specified by the Service in relation to his sponsorship or placement.

The timing of the parole review process is set forth in § 212.12(g). It outlines three separate categories: (1) The process for a new detainee or detainee whose parole has recently been revoked will start ordinarily with the scheduling of a file review within approximately three months; (2) a detainee who has continued in custody and has been denied parole will receive a yearly review; and (3) a detainee may receive a discretionary review scheduled by the Cuban Review Plan Director. These goals for the timing of parole reviews are, of course, contingent upon the availability of adequate resources, which the Department is undertaking to obtain. As noted above, the Review Plan established by § 212.12 does not apply to detained Cubans who are still serving sentences imposed pursuant to criminal convictions.

Revocation of parole is covered by § 212.12(h). The Associate Commissioner will be responsible for the overall supervision of Mariel Cuban parole revocations. Local Service district directors will retain the power to revoke parole in emergency situations, but are expected to obtain prior clearance from the Associate Commissioner in routine cases. The grounds for parole revocation are listed in § 212.12(h). In the past, the district directors have revoked parole most often after the Mariel Cuban has been convicted of a serious misdemeanor or felony. Parole revocation has also occurred if an individual appears to present a danger to the community, displays serious mental health problems, is involved in repeated arrests or disturbances, or violates specific terms of parole. The new parole revocation guidelines contemplate a continuance of the same practices under day-to-day conditions. The guidelines also allow, however, for flexibility in meeting unusual or changing circumstances. These have been evident in foreign and domestic relations and changes in enforcement priorities. Now that Cuba has agreed to accept the return of the excludable Mariel Cubans, the guidelines also provide for revocation of parole as appropriate to enforce an order of exclusion or to commence proceedings.

New § 212.13. The scope of the Departmental Release Review Program, under the general supervision of the Associate Attorney General, is set forth in § 212.13(a). The Associate Attorney General is given the authority to establish additional day-to-day operating procedures as he deems necessary. The purpose of the Program, as set forth in § 212.13(b), is to provide a single parole review of eligible Mariel Cubans who have been denied parole after exhaustion of the procedures in § 212.12. A Mariel Cuban who is currently serving a sentence imposed after a criminal conviction is not eligible for review under the Departmental Program at this time; instead, the Program is limited to those Mariel Cubans in Service custody on the date of promulgation of this regulation. A decision will be made at a later date respecting any expansion of this Program. Likewise, nothing in § 212.13 is intended to preclude the repatriation of any Mariel Cuban regardless of whether he has received a parole review.

The rule specifically states, in § 212.13(b), that each eligible detainee shall be entitled to only one review before a Departmental Panel regardless of whether he is subsequently denied parole pursuant to § 212.12 or any successor plan. The composition of the panels is set forth in § 212.13(c), while § 212.13(d) contains a delegation of the Attorney General's discretionary authority, pursuant to section 212(d)(5) of the Act, 8 U.S.C. 1182(d)(5), to grant parole for emergent reasons or for reasons deemed strictly in the public interest.

The procedures for notifying a detainee that his case will be submitted to a Departmental Panel are contained in § 212.13(e). Under this paragraph, the detainee will be notified that he may submit a written statement to the Panel setting forth any factors he deems relevant. Although not required by the Act, the detainee will also be advised that he may, at no expense to the government, have a representative or counsel assist in the preparation of the statement. This is consistent with the provisions of section 292 of the Act, 8 U.S.C. 1362, which accord any alien the privilege of representation, at no expense to the government, in exclusion proceedings. Under no circumstances is it contemplated that counsel will be appointed for a detainee. The review is to be a record review, not an adversarial evidentiary hearing, such as that usually available in respect to a finding of excludability. Under § 212.13(f), the Departmental Panel may, in its sole discretion, designate one of its members to interview the detainee and report in writing to the full Panel.

Pursuant to § 212.13(g), the decision of the Departmental Panel will be based on a review of the record created during the procedure outlined in § 212.12, the written submission of the detainee, if any, and any interview deemed appropriate by the Panel. Except as provided in § 212.13(i), the decisions of the Panel will be final and subject to no further review. Under § 212.13(i), a Panel has discretionary authority to withdraw a grant of parole when, prior to release, the conduct of the detainee or other changes in circumstances warrant. It is important that the Panel have the flexibility to respond when, for example, a detainee who has been granted parole subsequently engages in conduct which undermines the Panel's decision, when such conduct occurs after submission of

the case to the panel and thus is not a part of the record, or when foreign affairs or domestic conditions indicate that the parole determination is no longer in the public interest.

Specified in § 212.13(h) are the same caveats regarding release to suitable sponsorships or placements as contained in § 212.12(f). Likewise, § 212.13(h) provides that the paroled detainee must abide by the parole conditions specified by the Service. Under § 212.13(j), parole granted by a Departmental Panel may be revoked pursuant to § 212.12. Thus, the Departmental Panel is not vested with a role in the revocation of parole. The Departmental Review Program's specific and limited function is to provide a one-time review of eligible Mariel Cubans for possible parole. Neither the Review Program nor the Departmental Panels which implement the Program are intended to provide oversight into day-to-day parole decisions or placements, the execution of orders of exclusion, or any of the many matters encompassed in the general enforcement of our immigration laws. These matters are properly entrusted to the Service. Accordingly, the Service retains sole delegation of authority under § 212.12 to establish the conditions of parole and to revoke parole.

Justification for Final Rule

The promulgation of this rule setting forth the Cuban Review Plan and establishing the Departmental Release Review Program is effective immediately and not subject to notice and comment rulemaking because the Department of Justice "for good cause finds * * * that notice and public procedures thereon are impracticable, unnecessary, or contrary to the public interest" in accordance with 5 U.S.C. 553(b)(B). The immediate initiation of a special parole program for detained Mariel Cubans is necessary to assure that all parole determinations are promptly and fairly reviewed. Recently, well-publicized, volatile, and life-threatening disturbances took place at the Atlanta, Georgia and Oakdale, Louisiana institutions in which Mariel excludables were detained. In nine days of occupation, one detainee lost his life, both sites suffered extensive property damage amounting to tens of millions of dollars, detainees had fashioned weapons, and the prospect loomed for sharply escalating hostilities, threatening the health and safety, among others, of officials and citizens held hostage throughout the ordeal. The two incidents underscore the need for a system of parole determinations that ensures that the Cuban detainees will have confidence that they are receiving a just and fair review. By swiftly responding to the recent tensions, the risk is minimized that the public will again be exposed to imminent and direct physical harm. In addition, the Atlanta detainees released their hostages and terminated the disturbance at that facility with the express expectation that parole reviews for certain detainees would be completed by June 30, 1988. Given the short timetable to conduct this anticipated review of a large number of detainees, it would be contrary to the public interest to delay implementation of this parole program. Therefore, it is necessary to invoke the "good cause" exception to the notice of proposed rulemaking requirements of 5 U.S.C. 553(b) and the "good cause" exception to the 30 day delayed effective date requirement of 5 U.S.C. 553(d), and to implement the rule immediately.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of section 1(b) of E.O. 12291.

This rule contains information collection requirements; however, they are exempt from the requirements of the Paperwork Reduction Act in accordance with 5 CFR 1320.3(c).

List of Subjects in 8 CFR Part 212

Aliens, Parole, Detention, Exclusion, Cubans.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANT WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for Part 212 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1225, 1226, 1228, 1252; 8 CFR Part 2.

2. In § 212.5, a new paragraph (f) is added to read as follows:

§ 212.5 Parole of aliens into the United States.

* * * * *

(f) *Parole for certain Cuban nationals.* Notwithstanding any other provision respecting parole, the determination whether to release on parole, or to revoke the parole of, a native of Cuba who last came to the United States between April 15, 1980, and October 20, 1980, shall be governed by the terms of §§ 212.12 and 212.13.

3. Part 212 is amended by adding §§ 212.12 and 212.13 to read as follows:

§ 212.12 Parole determinations and revocations respecting Mariel Cubans.

(a) *Scope.* This section applies to any native of Cuba who last came to the United States between April 15, 1980, and October 20, 1980 (hereinafter referred to as "Mariel Cuban") and who is being detained by the Immigration and Naturalization Service (hereinafter referred to as the "Service") pending his or her exclusion hearing, or pending his or her return to Cuba or to another country. It covers Mariel Cubans who have never been paroled as well as those Mariel Cubans whose previous parole has been revoked by the Service. It also applies to any Mariel Cuban, detained under the authority of the Immigration and Nationality Act in any facility, who has not been approved for release or who is currently awaiting movement to a Service or Bureau Of Prisons (BOP) facility. In addition, it covers the revocation of parole for those Mariel Cubans who have been released on parole at any time.

(b) *Parole authority and decision.* Except as provided in § 212.13, the authority to grant parole under section 212(d)(5) of the Act to a detained Mariel Cuban shall be exercised by the Commissioner, acting through the Associate Commissioner for Enforcement, as follows:

(1) *Parole decisions.* The Associate Commissioner for Enforcement may, in the exercise of discretion, grant parole to a detained Mariel Cuban for emergent reasons or for reasons deemed strictly in the public interest. A decision to retain in custody shall briefly set forth the reasons for the continued detention. A decision to release on parole may contain such special conditions as are considered appropriate. A copy of any decision to parole or to detain, with an attached copy translated into Spanish, shall be provided to the detainee. Parole documentation for Mariel Cubans shall be issued by the district director having jurisdiction over the alien, in accordance with the parole determination made by the Associate Commissioner for Enforcement.

(2) *Additional delegation of authority.* All references to the Commissioner and Associate Commissioner for Enforcement in this section shall be deemed to include any person or persons (including a committee) designated in writing by the Commissioner or Associate Commissioner for Enforcement to exercise powers under this section.

(c) *Review Plan Director.* The Associate Commissioner for Enforcement shall appoint a Director of the Cuban Review Plan. The Director shall have authority to establish and maintain appropriate files respecting each Mariel Cuban to be reviewed for possible parole, to determine the order in which the cases shall be reviewed, and to coordinate activities associated with these reviews.

(d) *Recommendations to the Associate Commissioner for Enforcement.* Parole recommendations for detained Mariel Cubans shall be developed in accordance with the following procedures.

(1) *Review Panels.* The Director shall designate a panel or panels to make parole recommendations to the Associate Commissioner for Enforcement. A Cuban Review Panel shall, except as otherwise provided, consist of two persons. Members of a Review Panel shall be selected from the professional staff of the Service. All recommendations by a two-member Panel shall be unanimous. If the vote of a two-member Panel is split, it shall adjourn its deliberations concerning that particular detainee until a third Panel member is added. A recommendation by a three-member Panel shall be by majority vote. The third member of any Panel shall be the Director of the Cuban Review Plan or his designee.

(2) *Criteria for Review.* Before making any recommendation that a detainee be granted parole, a majority of the Cuban Review Panel members, or the Director in case of a record review, must conclude that:

(i) The detainee is presently a nonviolent person;

(ii) The detainee is likely to remain nonviolent;

(iii) The detainee is not likely to pose a threat to the community following his release; and

(iv) The detainee is not likely to violate the conditions of his parole.

(3) *Factors for consideration.* The following factors should be weighed in considering whether to recommend further detention or release on parole of a detainee:

(i) The nature and number of disciplinary infractions or incident reports received while in custody;

(ii) The detainee's past history of criminal behavior;

(iii) Any psychiatric and psychological reports pertaining to the detainee's mental health;

(iv) Institutional progress relating to participation in work, educational and vocational programs;

(v) His ties to the United States, such as the number of close relatives residing lawfully here;

(vi) The likelihood that he may abscond, such as from any sponsorship program; and

(vii) Any other information which is probative of whether the detainee is likely to adjust to life in a community, is likely to engage in future acts of violence, is likely to engage in future criminal activity, or is likely to violate the conditions of his parole.

(4) *Procedure for review.* The following procedures will govern the review process:

(i) *Record review.* Initially, the Director or a Panel shall review the detainee's file. Upon completion of this record review, the Director or the Panel shall issue a written recommendation that the detainee be released on parole or scheduled for a personal interview.

(ii) *Personal interview.* If a recommendation to grant parole after only a record review is not accepted or if the detainee is not recommended for release, a Panel shall personally interview the detainee. The scheduling of such interviews shall be at the discretion of the Director. The detainee may be accompanied during the interview by a person of his choice, who is able to attend at the time of the scheduled interview, to assist in answering any questions. The detainee may submit to the Panel any information, either orally or in writing, which he believes presents a basis for release on parole.

(iii) *Panel recommendation.* Following completion of the interview and its deliberations, the Panel shall issue a written recommendation that the detainee be released on parole or remain in custody pending deportation or pending further observation and subsequent review. This written recommendation shall include a brief statement of the factors which the Panel deems material to its recommendation. The recommendation and appropriate file material shall be forwarded to the Associate Commissioner for Enforcement, to be considered in the exercise of discretion pursuant to § 212.12(b).

(e) *Withdrawal of parole approval.* If a detainee approved for parole fails to maintain proper behavior while he is awaiting suitable sponsorship or placement, his parole approval may be revoked by the Associate Commissioner for Enforcement.

(f) *Sponsorship.* No detainee may be released on parole until suitable sponsorship or placement has been found for the detainee. The paroled detainee must abide by the parole conditions specified by the Service in relation to his sponsorship or placement. The following sponsorships and placements are suitable:

(1) Placement by the Public Health Service in an approved halfway house or mental health project;

(2) Placement by the Community Relations Service in an approved halfway house or community project; and

(3) Placement with a close relative such as a parent, spouse, child, or sibling who is a lawful permanent resident or a citizen of the United States.

(g) *Timing of reviews.* The timing of review shall be in accordance with the following guidelines.

(1) *Parole revocation cases.* The Director shall schedule the review process in the case of a new or returning detainee whose previous immigration parole has been revoked. The review process will commence with a scheduling of a file review, which will ordinarily be expected to occur within approximately three months after parole is revoked.

(2) *Continued detention cases.* A subsequent review shall be commenced for any detainee within one year of a refusal to grant parole under either § 212.12(b) or § 212.13, whichever is later, unless a shorter interval is specified by the Director.

(3) *Discretionary reviews.* The Cuban Review Plan Director, in his discretion, may schedule a review of a detainee at any time when the Director deems such a review to be warranted.

(h) *Revocation of parole.* The Associate Commissioner for Enforcement shall have authority, in the exercise of discretion, to revoke parole in respect to Mariel Cubans. A district director may also revoke parole when, in the district director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Associate Commissioner. Parole may be revoked in the exercise of discretion when, in the opinion of the revoking official:

(1) The purposes of parole have been served;

(2) The Mariel Cuban violates any condition of parole;

(3) It is appropriate to enforce an order of exclusion or to commence proceedings against a Mariel Cuban; or

(4) The period of parole has expired without being renewed.

§ 212.13 Departmental parole determinations respecting certain Mariel Cubans.

(a) *Scope.* This section, establishing a Departmental Release Review Program, applies to all excludable Mariel Cubans who on the effective date of this regulation are detained by virtue of the Attorney General's authority under the Immigration and Nationality Act and whose parole has been denied after the exhaustion of the procedures set forth in § 212.12. This Departmental Release Review Program shall be under the general supervision of the Associate Attorney General, who shall administer the Program and establish such additional procedures as may be required.

(b) *Single review.* Each detainee described in paragraph (a) above shall be entitled to only one review before a Departmental Panel. Should a detainee denied parole under this section subsequently receive further review pursuant to § 212.12 or any successor parole review plan of the Service, such detainee shall not be entitled to a second review before a Departmental Panel.

(c) *Departmental panels.* The Associate Attorney General shall establish panels which will be comprised of three persons from within the Department of Justice, one of whom must be an attorney, and one of whom must be a representative of the Community Relations Service. The Immigration and Naturalization Service shall not be represented on the panels. These panels shall consider the cases of those Mariel Cubans whose parole has previously been denied pursuant to the provisions set forth in § 212.12.

(d) *Parole authority.* Each Departmental Panel shall be vested with the full discretion of the Attorney General under section 212(d)(5) of the Act to grant parole for emergent reasons or for reasons deemed strictly in the public interest.

(e) *Notification and submission.* Prior to the submission by the Service of a case to a Departmental Panel, the detainee shall receive notification from the Service that he is about to receive Departmental Panel consideration. Such notification shall inform the detainee that he may submit a written statement to a Departmental Panel, within 30 days from the date of service of the notification, setting forth any factors he deems relevant to the parole consideration and he may, at no expense to the government, have his representative or counsel assist in the preparation of this written statement.

(f) *Interviews.* A Departmental Panel may designate one of its members to interview the detainee and report in writing to the full Panel whenever in its sole discretion it deems such action appropriate.

(g) *Panel decisions.* The written decision of a Departmental Panel will be based on a review of the record created during the review by the Service pursuant to § 212.12, the written submission, if any, from the detainee, and the information obtained from any Panel interview of the detainee. Except as provided in paragraph (i) of this section, all written decisions of a Departmental Panel will be final and subject to no further review.

(h) *Sponsorship.* No detainee may be released on parole until suitable sponsorship or placement has been found for the detainee. The paroled detainee must abide by the parole conditions specified by the Service in relation to his sponsorship or placement. The following sponsorships and placements are suitable:

(1) Placement by the Public Health Service in an approved halfway house or mental health project;

(2) Placement by the Community Relations Service in an approved halfway house or community project; and

(3) Placement with a close relative such as a parent, spouse, child, or sibling who is a lawful permanent resident or a citizen of the United States.

(i) *Withdrawal of parole approval.* A Departmental Panel may, in its discretion, withdraw its approval for parole of any detainee prior to release when, in its opinion, the conduct of the detainee, or any other circumstance, indicates that parole would no longer be appropriate.

(j) *Parole revocations.* Parole granted under this section may be revoked pursuant to § 212.12.

4. The Table of Contents to 8 CFR Part 212 is amended by adding before the "Authority" citation the following new headings:

Sec.

* * * * *

212.12 Parole determinations and revocations respecting Mariel Cubans.

212.13 Departmental parole determinations respecting certain Mariel Cubans.

Dated: December 21, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-29568 Filed 12-24-87; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

Regulation T

[Docket No. R-0611]

Credit by Brokers and Dealers (Regulation T); Exercise of Employee Stock Options

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: The Board is adopting an amendment to Regulation T that will permit broker-dealers to aid in the exercise of company stock options owned by employees of the company, its subsidiaries, or affiliates. In lieu of the securities to be received upon exercise, the amendment will allow broker-dealers to accept a fully-endorsed employee stock option and instructions to the issuer to deliver the securities to the broker-dealer.

EFFECTIVE DATE: January 25, 1988.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer, or Scott Holz, Attorney, Division of Banking Supervision and Regulation, (202) 452-2781. For the hearing impaired *only*, Telecommunications Service for the Deaf, Earnestine Hill or Dorothea Thompson, (202) 452-3544.

SUPPLEMENTARY INFORMATION: The proposal to amend Regulation T was published in the Federal Register on August 26, 1987 (52 FR 32138). Twenty comments were received; all but two supported the amendment as proposed.

Many of the commenters asked for clarification of how the Board envisions the mechanics of these transactions. The following paragraphs respond to the comments.

The amendment will allow the broker-dealer to accept a fully-endorsed employee stock option with instructions signed by the customer instructing the issuer to deliver the securities to the broker-dealer. The customer is to designate the account into which the securities should be deposited, i.e. the margin account or the cash account. The rule does not preclude allowing the broker-dealer to advance funds to the issuer in cases where the employee has given the exercise notice to the issuer and not the broker-dealer, as long as the broker-dealer has a copy of the exercise notice and delivery instructions and has verified that the issuer will deliver the securities promptly to the broker-dealer.

If the customer wishes to immediately sell the stock to be received upon

exercise in order to profit from the difference between the exercise price of the option and the current value of the resulting stock, the cash account would be the appropriate account. A customer who avails himself of the amendment using the cash account will be deemed to own the security for purposes of § 220.8(a)(2)(ii). The 90 day freeze provision (§ 220.8(c)) would therefore not apply to the transaction.

If the customer wishes to keep the stock he would most likely elect to use a margin account, assuming the stock to be received upon exercise is a margin security as defined in § 220.2(o). If the exercise price is greater than 50% of the current market price of the margin security, the broker-dealer should treat the transaction as creating a margin deficiency in the account. The broker-dealer would then issue a margin call for the additional funds, due within seven business days from the date the exercise notice is received by the broker-dealer.

In response to a request for clarification by the New York Stock Exchange, the Board indicated that the transactions will not be deemed a violation of the arranging provision of Regulation T (§ 220.13). Another commenter pointed out that many plans prohibit assignment of options. The Board stated that, in its view, delivery of the endorsed notice of exercise does not constitute an assignment of the option to the broker-dealer as the broker-dealer is receiving the stock on behalf of the customer. In response to another comment, the Board reiterated that Regulation T only applies to the amount of credit that is extended and does not regulate interest charges or other fees.

One commenter requested that the Board allow independent contractors who receive stock options as compensation to use the amendment. The Board has in the past created special exceptions in its margin regulations to aid the exercise of employee stock options (e.g., 12 CFR 207.5). This was in part due to the Board's perception that the favorable tax treatment given employee stock options reflected a Congressional intent to aid employee stock ownership. Since it is not clear that an independent contractor would be an "employee" entitled to favorable tax treatment for the exercise of an employee stock option, the Board is not prepared to enlarge the scope of this amendment at this time. The Board has changed the wording in the amendment, as requested by the same commenter, so that the creditor is required to verify that the "*issuer*" (rather than "the employer") of the option will make prompt delivery. This change recognizes that options are sometimes issued by an employer's holding company or affiliate and is consistent with the plan lender provisions of Regulation G. Retired employees are also covered.

Some commenters suggested allowing similar treatment for other financial instruments representing employee benefits issued by a company to its employees, such as warrants. Others suggested waiving the current margin of 50% equity in favor of good faith margin for the stock received upon exercise. The Board declines to adopt either suggestion at this time, as they would unduly complicate the rule.

Regulatory Flexibility Act

The Board certifies that the amendment will have no significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601).

Paperwork Reduction Act

No additional reporting requirements or modification to existing reporting requirements are proposed.

List of Subjects in 12 CFR Part 220

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

For the reasons set out in this notice, and pursuant to the Board's authority under sections 3, 7, 8, 17, and 23 of the Securities Exchange Act of 1934, as amended, (15 U.S.C. 78c, 78g, 78h, 78q and 78w), 12 CFR Part 220 is amended as follows:

PART 220—CREDIT BY BROKERS AND DEALERS

1. The authority citation for Part 220 continues to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78h, 78q, and 78w.

2. Section 220.3 is amended by adding a new paragraph (e)(4) to read:

§ 220.3 General Provisions

* * * * *

(e) Receipt of funds or securities.* * *

(4) A creditor may accept, in lieu of securities, a properly executed exercise notice for a stock option issued by the customer's employer and instructions to the issuer to deliver the resulting stock to the creditor. Prior to acceptance, the creditor must verify that the issuer will deliver the securities promptly and the customer must designate the account into which the securities are to be deposited.

By order of the Board of Governors of the Federal Reserve System, December 18, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-29464 Filed 12-24-87; 8:45am]

BILLING CODE 6210-01-M

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12 CFR Part 265

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment to the Rules Regarding Delegation of Authority authorizes the Board's General Counsel to deny a request for stay of the effective date of a Board order. The Board itself would retain sole discretion to grant a request for stay of the effectiveness of any decision.

EFFECTIVE DATE: December 28, 1987. The amendment is effective for any request for stay pending on December 28, 1987 or received thereafter.

FOR FURTHER INFORMATION CONTACT: Sidney M. Sussan, Assistant Director, Division of Banking Supervision and Regulation (202/452-2638) or Scott G. Alvarez, Senior Counsel, Legal Division (202/452-3583). For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Earnestine Hill or Dorthea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: The General Counsel has been delegated authority to deny requests for reconsideration of a Board decision, 12 CFR 265.2(b)(7), but has not been delegated authority to deny a request for stay of the effective date of a Board order. Increasingly, requests for reconsideration of Board orders are being accompanied by requests that the effective date of a Board order be stayed.

In order to avoid the need to bring before the Board requests for a stay that present no new facts and raise no significant legal issues, the Board is amending its Rules Regarding Delegation of Authority to permit the Board's General Counsel to deny any request for stay that fails to satisfy all of the above criteria and that also raises no other significant issues. The decision to approve a request for stay would be preserved for Board action.

This amendment to the Board's Rules Regarding Delegation of Authority is expected to expedite processing of requests for stay and to decrease the number of Board agenda items that do not present significant legal or policy

issues. Any request being processed under delegated authority could always be brought to the Board's consideration if the circumstances so warrant.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), the Board certifies that the amendment will not have a significant economic impact on a substantial number of small entities. The amendment will ease the application of existing regulations and does not have any particular effect on small entities.

Public Comment

The provisions of section 553 of Title 5, United States Code, 12 U.S.C. 553, relating to notice, public participation, and deferred effective date have not been followed in connection with the adoption of this amendment because the change to be effected is procedural in nature and does not constitute a substantive rule subject to the requirements of that section. The Board's expanded rulemaking procedures have not been followed because the amendment is a technical one and because it relieves a burden that could obstruct necessary and prompt action that would be in the public interest.

List of Subject in 12 CFR Part 265

Authority delegations (Government agencies), Federal Reserve System.

Pursuant to the Board's authority under the Bank Holding Company Act and section 11(k) of the Federal Reserve Act, 12 CFR Part 265 is amended as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for Part 265 continues to read as follows:

Authority: Section 11(K), 38 Stat. 261 and 80 Stat. 1314 (12 U.S.C. 248(k)).

§ 265.2 [Amended]

2. Section 265.2(b)(7) is revised to read as follows:

* * * * *

(b) * * *

(7) Pursuant to § 262.3(i) of this chapter (Rules of Procedure) to determine whether or not to grant a request for reconsideration or whether to deny a request for stay of the effective date of any action taken by the Board with respect to an action as provided in that part.

* * * * *

Board of Governors of the Federal Reserve System, December 18, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–29463 Filed 12–24–87; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–ASW–26; Amdt. 39–5800]

Airworthiness Directives; McDonnell Douglas Helicopter Company, Model 369D, E, F, and FF Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires repetitive inspections of the main rotor transmission output shaft assembly ring gear carriers on McDonnell Douglas Helicopter Company (MDHC) Model 369D, E, F, and FF helicopters. This amendment extends the inspection to include all affected main rotor transmission assemblies. This action is prompted by reports that main rotor transmission output shaft assembly ring gear carriers have failed in flight which, if uncorrected, could result in loss in power to the main rotor or possible jamming of the main rotor transmission and loss of control of the helicopter.

DATES: *Effective Dates:* January 15, 1988.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 15, 1988.

Compliance: As indicated in the body of this AD.

ADDRESSES: The applicable service information notice may be obtained from McDonnell Douglas Helicopter Company, 500 E. McDowell Road, Mesa, Arizona 85205. A copy of each document supporting the AD is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John S. Ehret, Aerospace Engineer, Propulsion Section, ANM–174W, Western Aircraft Certification Office, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007; telephone 213–297–1384.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–5700 (52 FR 33228; September 2, 1987), AD 87–18–12, which currently requires repetitive inspection of the main rotor transmission output shaft assembly ring gear carriers and removal from service of all defective units on MDHC Model 369D, E, F, and FF helicopters. Further investigation by McDonnell Douglas Helicopter Company and the FAA has revealed that Part Number (P/N) 369D25132–BSC or –5 main transmission output shaft assemblies installed in P/N 369D25100–BSC, –501 or –503 main transmission assemblies also require the repetitive inspection mandated in the original AD. When P/N 369D25132–BSC or –5 main transmission output shaft assemblies are replaced by P/N 369D25132–3, and the main transmission assembly is reidentified as 369D25100–505, the periodic visual inspections will no longer be required. Therefore, the FAA is amending Amendment 39–5700 by extending the applicability to include all of the above noted assemblies and to require the inspection described in revised MDHC Mandatory Service Information Notice DN–148.1/EN–36.1/FN–25.1, dated October 30, 1987, on MDHC Model 369D, E, F, and FF helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained from the Regional Rules Docket.

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending Amendment 39–5700 (52 FR 33228; September 2, 1987), AD 87–18–12, by revising the applicability paragraph; by revising paragraph (d); by redesignating paragraphs (e) and (f) as (f) and (g), respectively; and by adding a new paragraph (e), to read as follows:

McDonnell Douglas Helicopter Company (MDHC) (Hughes Helicopters, Inc.): Applies to all Model 369D, 369E, 369F, and 369FF helicopters, certificated in any category, incorporating main rotor transmission output shaft assembly ring gear carriers (P/N 369D25132–BSC or –5) in main transmission assemblies P/N 369D25100–BSC, –501 or –503.

* * * * *

(d) Perform a dye penetrant and visual inspection on the affected ring gear carriers in accordance with the procedures detailed in paragraphs a through g of the "Periodic Visual Inspection" section of McDonnell Douglas Helicopter Company Mandatory Service Information Notice (SIN) DN–148.1/EN–36.1/FN–25.1, dated October 30, 1987. Remove from service prior to further flight:

(1) Output shafts with any bulging or raised surface in the area being inspected on the upper disc surface (see Figure 2 in referenced SIN).

(2) Output shafts with any crack indication in the area being inspected on the lower and upper disc surfaces (see Figure 3 in referenced SIN).

(e) When the main rotor transmission output shaft assembly ring gear carrier P/N 369D25132–3 is installed and the main transmission assembly is reidentified as P/N 369D25100–505, repetitive inspections are no longer required.

* * * * *

The procedure shall be done in accordance with MDHC Mandatory Service Information Notice DN–148.1/EN–36.1/FN–25.1, dated October 30, 1987. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 522(a) and 1 CFR Part 51. Copies may be obtained from McDonnell Douglas Helicopter Company, 500 E. McDowell Road, Mesa, Arizona 85205. Copies may be inspected at the Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the **Federal Register**, 1100 L Street NW., Room 8401, Washington, DC.

This amendment becomes effective January 15, 1988.

This amendment amends Amendment 39–5700 (52 FR 33228; September 2, 1987), AD 87–18–12.

Issued in Fort Worth, Texas, on November 30, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87–29648 Filed 12–24–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR PART 71

[Airspace Docket Number 87–ACE–12]

Alteration of Transition Area; Charles City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Charles City, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Charles City, Iowa, Municipal Airport, utilizing the Charles City NDB as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: 0901 Ut.c., May 5, 1988.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, an additional approach procedure is being developed for the Charles City, Iowa, Municipal Airport, utilizing the Charles City NDB as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails alteration of the transition area at Charles City, Iowa, at or above 700 feet above the ground, within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C, dated January 2, 1987.

Discussion of Comments

On October 23, 1987, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Charles City, Iowa (52 FR 39659). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rulemaking.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Charles City, IA [Revised]

That airspace extending upward from 700 ft. above the surface within a 5-mile radius of Charles City Municipal Airport (Lat. 43°04'15"N., Long. 92°36'15"W.); and within 2.75 miles each side of the 316 bearing from Charles City NDB (Lat. 43°04'18"N., Long. 92°36'35"W.), extending from the 5-mile radius area to 8.0 miles northwest of the airport; and within 2.75 miles each side of the 104° bearing from Charles City NDB

extending from 5-mile radius area to 8.0 miles southeast of the airport.

This amendment becomes effective at 0901 Ut.c. May 5, 1988.

Issued in Kansas City, Missouri, on December 11, 1987.

Clarence E. Newbern,

Assistant Manager, Air Traffic Division.

[FR Doc. 87-29654 Filed 12-24-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 372, 387, 388, and 399

[Docket No. 71265-7265]

Electronic Submission of Validated License Applications

AGENCY: Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: In order to reduce the paperwork burden on exporters, Export Administration is establishing a new procedure whereby exporters may apply electronically, rather than in writing, to the Office of Export Licensing for a validated export license. Initially, license applications submitted electronically will be processed only for exports and reexports to Country Groups T and V, (except the People's Republic of China) of commodities other than supercomputers. Exporters will be advised of any future expansion of this procedure. This rule sets forth the requirements for eligibility, records maintenance, and other features of the electronic submission program.

In addition, this rule removes a paragraph on legal liability from Part 372 because such liability is covered in Part 387, "Enforcement."

EFFECTIVE DATE: This rule is effective January 2, 1988.

FOR FURTHER INFORMATION CONTACT: Thomas deButts, Office of Export Licensing, Export Administration, Telephone: (202) 377-8540.

SUPPLEMENTARY INFORMATION: 1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. This rule involves a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0625-0001.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 372, 387, 388, and 399

Administrative practice and procedure, Boycotts, Exports, Law enforcement, Penalties, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

1. The authority citation for Parts 372, 387, and 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. The authority citation for Part 388 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PART 372—[AMENDED]

3. In § 372.1, the first sentence of paragraph (a) is revised; paragraph (c) is revised; paragraph (d) is removed; and paragraphs (e) through (h) are redesignated (d) through (g) respectively, as follows:

§ 372.1 General provisions.

(a) *Scope.* The Export Administration Regulations shall apply to individual export license applications and to individual validated licenses issued by the Office of Export Licensing (OEL), *whether submitted in writing or electronically.* * * *

* * * * *

(c) *Responsibility of licensee.* Any applicant to whom an export license is issued becomes the licensee. The licensee will be held accountable for the use of the license, whether as a principal (exporting for his own account) or as an agent (including an agent acting for the account of a foreign principal who is not subject to the jurisdiction of the United States). The licensee assumes responsibility for effecting the export, for proper use of the license, and for performance of all its terms and conditions. The obligations arising under the provisions of the Export Administration Act of 1979, as amended, and the Export Administration Regulations are the same whether the license application is submitted and issued in writing or electronically.

* * * * *

§ 372.4 [Amended]

4. In § 372.4, the title of paragraph (a) is revised to read "Applying in writing for a validated license"; the title of paragraph (a)(1) is revised to read "Form and manner of filing a written application"; paragraph (a)(1) is redesignated (a)(1)(i), paragraph (a)(2) is redesignated (c), and paragraphs (a) (3) and (4) are redesignated (a)(1) (ii) and (iii).

5. In §372.4, paragraph (b) is redesignated (a)(2) and paragraphs (b) (1), (2), and (3) are redesignated (a)(2) (i), (ii) and (iii); paragraphs (c) through (h) are redesignated (d) through (i); and new paragraph (b) is added, reading as follows:

§ 372.4 [Amended]

* * * * *

(b) *Applying electronically for a validated license.* An individual

validated license may be applied for electronically by an applicant that has been authorized to do so in accordance with this Part. An authorization to submit license applications electronically may be limited or withdrawn by the Department of Commerce at any time.

(1) *Requesting application instructions and approval to submit electronic applications.* To apply for validated licenses through electronic submission, the applicant company should request application instructions from the Department of Commerce by submitting to the Office of Export Licensing (OEL) a letter containing the name of the applicant company and the address, phone number, and name of the principal contact person of the applicant company. The letter should be mailed to the Office of Export Licensing, Department of Commerce, P.O. Box 273, Washington, DC 20044. For hand delivery, letters should be delivered to Office of Export Licensing, Room 2705, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. All correspondence should include "ATTN: Electronic Submission" on the envelope. Following the receipt of the license application instructions from the OEL, the applicant company may request approval to submit license applications electronically as set forth in those instructions.

(2) *Assignment and use of company and personal identification numbers.* (i) Each applicant company granted permission to submit validated license applications electronically will be assigned a company identification number. Each individual approved by OEL to submit license applications electronically for the applicant company will be assigned a personal identification number ("PIN"). A PIN will be assigned only to an individual the applicant company has certified to OEL to be authorized by the applicant company to act for it with respect to electronic submissions under these regulations.

(ii) An applicant company submitting license applications electronically shall reveal the assigned company identification number only to the PIN holders, their supervisors, employees, or agents of the applicant company with a commercial justification for knowing the company identification number.

(iii) An individual PIN holder shall not:

(A) Disclose the PIN to anyone;

(B) Record the PIN either in writing or electronically;

(C) Authorize another person to use such PIN; or

(D) Use the PIN following termination by the Department of Commerce or by the applicant company of his authorization or approval for PIN use.

(iv) To prevent misuse of the PIN—

(A) If a PIN is lost, stolen or otherwise compromised, the applicant company and the PIN holder shall report the loss, theft or compromise of the PIN immediately by calling the OEL at (202) 377–8536 and shall confirm the report in writing within two business days to OEL at the address provided in paragraph (b)(1) of this section.

(B) An applicant company shall be responsible for immediately notifying OEL whenever a PIN holder leaves the employ of the applicant company or otherwise ceases to be authorized by the applicant company to submit license applications electronically on its behalf.

(3) *Electronic submission of a validated license application.* (i) Upon approval of the applicant company's request to use electronic submission, OEL will provide instructions on the method to transmit the license application electronically. These instructions may be modified by the Department of Commerce from time to time. In addition, OEL may direct that any electronic license application be resubmitted in writing, in whole or in part for any reason, including the desire of OEL in a particular case to receive documentation in support of the license application that does not lend itself to electronic submission.

(ii) The electronic submission of a validated license application shall constitute an export control document. Such submissions shall provide the same information as written applications, except the applicant company need not submit the supporting documentation required by Part 375. However, the applicant company must retain these documents in its possession consistent with the provisions of § 387.13. The applicant company and PIN holder submitting the application shall be deemed to make all representations and certifications as if the submission were made in writing by the applicant company and signed by the submitting PIN holder. Electronic submission of a license application will be considered complete upon the transmittal of the application to the Department of Commerce or to an entity under contract to receive such applications for the Department of Commerce.

(4) *Maintenance of records.* An applicant company shall maintain a log, either manually or electronically, specifying the date and time of each electronic submission, the ECCNs of commodities on each electronic submission, and the name of the employee or agent submitting the license application. This log may not be altered. Written corrections must be made in a manner that does not erase or cover original entries. If the log is maintained electronically, corrections may only be made as notations.

(5) *Updating.* An applicant company shall promptly notify OEL of any change in its name or address. An applicant company that wishes to have an individual added as a PIN holder shall so advise OEL and proceed in accordance with the instructions OEL will provide. Applicant companies should make periodic reviews to ensure that PINs are held only by individuals whose current responsibilities make it necessary and appropriate that they act for the applicant company in this capacity.

* * * * *

§ 372.8 [Amended]

6. In § 372.8, paragraph (c)(3) is amended by revising the reference to "§ 372.1(f)" to read "372.1(e)".

§ 372.10 [Amended]

7. In § 372.10, the introductory paragraph is amended by revising the reference to "§ 372.1(f)" to read "§ 372.1(e)".

§ 372.12 [Amended]

8. In § 372.12, the introductory paragraph is amended by revising the reference to "§ 372.4(b)" to read "372.4(i)".

§ 372.13 [Amended]

9. In § 372.13, paragraph (a) is amended by revising the reference to "§ 372.1(f)" to read "§ 372.1(e)".

PART 387—[AMENDED]

§ 387.13 [Amended]

10. In § 387.13, Paragraph (c) is amended by inserting "372.4," between "372.1," and "372.5,".

PART 388—[AMENDED]

§ 388.3 [Amended]

11. In § 388.3, footnote 2 to paragraph (a)(1) is amended by revising the reference to "§ 372.1(h)" to read "§ 372.1(g)".

§ 388.19 [Amended]

12. In § 388.19, paragraph (a)(1) is amended by revising the reference to "372.1(e)" to read "372.1(d)".

PART 399—[AMENDED]

§ 399.1 [Amended]

13. In § 399.1, paragraph (h) is amended by revising the reference to "§ 372.4(d)" to read "§ 372.4(e)".

Dated: December 22, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-29640 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DT-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1608

Rules and Regulations Under the Flammable Fabrics Act; Continuing Guaranties

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending administration and enforcement rules implementing the Flammable Fabrics Act (FFA) to provide that persons and firms may file continuing guaranties in accordance with section 8 of the FFA with the Office of the Secretary of the Consumer Product Safety Commission, and obtain forms for such guaranties from the Office of the Secretary. The Commission is issuing this amendment because it recently revised its rules of organization and functions to provide that the Office of the Secretary shall maintain records of continuing guaranties filed with the Commission under provisions of the FFA.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Mary Toro, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492-6400.

SUPPLEMENTARY INFORMATION: The Flammable Fabrics Act (FFA) (15 U.S.C. 1191 *et seq.*) Prohibits the manufacture for sale, importation into the United States, or introduction in commerce of any product of wearing apparel or interior furnishing made of fabric or related material, or of any fabric or related material used or intended for use in such products, which fails to comply with an applicable standard of flammability issued under that act. Provisions of the FFA authorize the Commission to obtain administrative orders to cease and desist and injunctions to prohibit violations of the act, and to seize items which fail to comply with an applicable standard of flammability. Additionally, provisions of section 7 of the FFA (15 U.S.C. 1196) authorize the Commission to seek criminal penalties against any person who "willfully" violates the FFA.

Section 8(a) of the FFA (15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. A guaranty does not provide the holder any defense to an administrative action for an order to cease and desist from further violation of an application flammability standard, nor to any civil action for injunction or seizure brought under the FFA.

A guaranty under the FFA is a statement to the effect that reasonable and representative tests made in accordance with the applicable standard or standards issued under the FFA show that the products, fabrics, or related materials covered by the guaranty conform with applicable flammability standards. Section 8(a) of the FFA provides that a guaranty may be in the form of a guaranty from the seller to the buyer of the items covered by the guaranty or a continuing guaranty filed with the Commission.

Regulations containing suggested forms of guaranties are codified at 16 CFR Part 1608. Provisions of § 1608.3(a) set forth procedures for filing a continuing guaranty with the Commission, and state that persons and firms should file such guaranties with the Bureau of Compliance of the Commission. Recently the Commission revised its rules of organization and functions (16 CFR Part 1000) to provide, among other things, that the Office of the Secretary shall maintain records of continuing guaranties filed with the Commission under provisions of section 8(a) of the FFA.

For this reason, the Commission is amending 16 CFR 1608.3(a) to provide that persons and firms may file continuing guaranties under section 8 of the FFA with the Office of the Secretary of the Consumer Product Safety Commission, and obtain forms for such guaranties from the Office of the Secretary.

Generally, the Administrative Procedure Act (APA) (5 U.S.C. 553) requires that agencies must give notice of proposed rulemaking and provide opportunity for interested parties to submit written comments on the proposal before a rule can be issued or amended. However, 5 U.S.C. 553(b)(B) provides that notice of proposed rulemaking and public participation are not required when the agency makes a finding for good cause that such notice and opportunity for comment are "impracticable, unnecessary, or contrary to the public interest."

The Commission finds for good cause that notice of proposed rulemaking and opportunity for comment are not necessary for issuance of the amendment published below because the only purpose of the amendment is to specify the office within the Commission to receive continuing guaranties filed with the Commission in accordance with provisions of section 8(a) of the FFA. In this instance, providing notice of proposed rulemaking and opportunity for submission of comments would be a meaningless gesture.

Similarly, the APA requires at 5 U.S.C. 553 that a "substantive rule" must be published at least 30 days before its effective date, unless the agency finds otherwise for good cause and publishes that findings with the final rule.

The amendment published below does not alter or affect any substantive provisions of the rules implementing the Flammable Fabrics Act; it changes only the name of the office within the Commission to receive continuing guaranties filed with the Commission and to provide forms for preparing such guaranties. For this reason, the requirement of 5 U.S.C. 553 for publication of a final substantive rule at least 30 days before its effective date is not applicable, and the amendment published below shall become effective immediately.

Accordingly, pursuant to section 30(b) of the Consumer Product Safety Act (15 U.SC. 2079(b)) and section 5(c) of the FFA (15 U.S.C. 1194(c)), the Commission amends Title 16, Chapter II, Subchapter D, Part 1608, as follows:

PART 1608—GENERAL RULES AND REGULATIONS UNDER THE FLAMMABLE FABRICS ACT

1. The authority citation for Part 1603 continues to read as follows:

Authority: Sec. 5, 67 Stat. 112, as amended 81 Stat. 570 (15 U.S.C. 1194).

§ 1608.3 [Amended]

2. In § 1608.3(a), all references to "the Bureau of Compliance" are changed to "the Office of the Secretary."

Dated: December 21, 1987.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 87-29597 Filed 12-24-87; 8:45 am]

BILLING CODE 6355-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Postponement of effective date of rules.

SUMMARY: On August 5, 1987, the Commission published in the **Federal Register** final rules governing foreign futures and options transactions in the United States. 52 FR 28980. The **Federal Register** release specified that the rules would become effective on January 4, 1988.

Recent events in the markets, however, have resulted in delays in the implementation of this new regulatory system. In order to ensure that all affected parties have sufficient time to implement the new regulatory system, the Commission has determined to postpone the effective date of the rules to February 1, 1988.

DATES: Accordingly, notice is hereby given that the effective date of the Commission's final rules governing foreign futures and options transactions in the United States (52 FR 28980, August 5, 1987) is postponed to February 1, 1988.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Attorney, Division of Trading and Markets, Commodity Futures Trading Commision, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

Issued in Washington, DC, on December 21, 1987, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 87–29566 Filed 12–24–87; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CCGD7 87–27]

Regulated Navigation Area; Brunswick, GA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area in the Port of Brunswick, GA. All vessels over 500 Gross Tons departing the Port of Brunswick, GA, at any time other than during flood current, will be required to approach the Sidney Lanier Bridge (U.S. Route 17) in such a manner as to be shaped up for bridge transit before passing a point of no return and being committed to the transit. These regulations are necessary because of a history of allisions with the bridge.

EFFECTIVE DATE: January 27, 1988.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Danny R. Buck, project officer, (912) 944–4371 at Marine Safety Office, Savannah, GA.

SUPPLEMENTARY INFORMATION: On September 3, 1987, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (52 FR 33435). Interested persons were requested to submit comments. Two comments were received. Both were in favor of establishing the regulated navigation area as proposed, and the rule is being implemented without change.

Drafting Information

The drafters of this notice are Chief Warrant Officer Danny R. Buck, U.S. Coast Guard, project officer, and Lieutenant Commander S.T. Fuger, Jr., U.S. Coast Guard, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Comments

The Georgia Department of Transportation commented as follows: "The Georgia Department of Transportation as operator of the Sidney Lanier Bridge highly endorses the proposed new rules.

The minimum inconvenience to shipping interest necessitated by the proposed new rule is far outweighed by the decreased changes of another allision (sic) with the bridge. We highly encourage the permanent adoption of the proposed rule."

In its comments, the Brunswick Bar Pilots Association likewise favorably endorsed the proposed rulemaking and further stated: "Under your order #13–87, this procedure has been employed and accepted with very little adverse comment by the Masters of the vessels involved * * *. At this time I do not believe that this required procedure would be detrimental to development or increased use of the East River Terminals."

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Exeuctive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary.

The rule permits two different maneuvers for affected outbound vessels approaching the bridge. Compliance is projected to add approximately 15 minutes to one hour to a vessel's outbound harbor transit time, depending on which maneuver is selected.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations is hereby amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–6, and 160.5.

2. Section 165.735 is added to read as follows:

§ 165.735 Brunswick, Georgia, Turtle River, Vicinity of Sydney Lanier Bridge.

Except during the flood tide, every vessel over 500 GRT departing the Port of Brunswick for sea shall do so only from the Turtle River, so as to be shaped up for bridge transit:

(a) Before reaching Turtle River Buoy "1" (Light List Number 6050); or,

(b) Before reaching the intersection of Brunswick Harbor Range and Turtle River Lower Range, provided that the vessel:

(1) Be equipped with an operable bow thruster or have tug assistance; and

(2) Be stopped and maneuvered with no appreciable way on until aligned with the centerline axis of the Turtle River Channel.

Dated: December 11, 1987.

H.B. Thorsen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 87–29515 Filed 12–24–87; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 777

Implementation of the Uniform Relocation Act Amendments of 1987; Clarification

AGENCY: Postal Service.

ACTION: Final rule; clarification.

SUMMARY: The purpose of this document is to clarify the Postal Service's amended relocation regulations which appeared in the **Federal Register** on December 17, 1987 (52 FR 48029). Those regulations showed an effective date of January 19, 1988. Inadvertently omitted from the **EFFECTIVE DATE** line was the following sentence, which the Postal Service hereby adds: This regulation will apply to any projects which have been publicly advertised on or after this date.

FOR FURTHER INFORMATION CONTACT: Mr. Philip E. Wilson, (202) 268–3111.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87–29639 Filed 12–24–87; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3301–8; AL–019]

Approval and Promulgation of Implementation Plans, Alabama; PSD Modeling Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving Alabama's submittal dated March 24, 1987, which commits the State to use EPA's revised modeling guideline in their Prevention of Significant (PSD) permitting process. EPA promulgated amendments to 40 CFR 51.166 and 52.21 on September 9, 1986 (51 FR 32176) to substitute in these regulations by reference the "Guideline on Air Quality Models (Revised)." Alabama's modeling procedures pursuant to the PSD regulations comply with EPA modeling guidelines, and the committal letter clarifies this fact.

DATES: This action will be effective February 26, 1988, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments on this action may be submitted to Beverly T. Hudson at the EPA Regional Office address listed below.

Copies of the documents relevant to this action are available for public inspection at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Air Division, Alabama Department of Environmental Management, 1751 Federal Drive, Montgomery, Alabama 36109

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson of the EPA Region IV, Air Programs Branch, at the above address and telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: Section 165(e)(3)(D) of the Clean Air Act (Act) requires the Administrator to adopt regulations specifying with reasonable particularity models to be used to comply with the Act's PSD requirements. To carry out these requirements, the 1978 "Guideline on Air Quality Models" was incorporated by reference in 40 CFR 51.24 (now renumbered 51.166) and 40 CFR 52.21. Many States have adopted this guideline in their PSD regulations.

On September 9, 1986 (51 FR 32176), EPA promulgated amendments to 40 CFR 51.24 (now renumbered 51.166) and 52.21 to substitute by reference the "Guideline on Air Quality Models (Revised)," EPA 450/2–78–027R, in these regulations. This change became effective October 9, 1986. This means that all modeling done pursuant to EPA's PSD regulations must either comply with the 1986 version of the modeling Guideline or be specifically approved by EPA; modeling done pursuant to the 1978 guidance may no longer be accepted. It also means that State's PSD regulations must require the use of the revised Guideline. Section 16.4.11 of Alabama's air regulations requires that all PSD permit applicants use the "Guideline on Air Quality Models," without specifying any particular version. On March 15, 1987, Alabama submitted a letter which commits the State to using the revised version of the Guideline.

Final Action

Since Alabama's PSD modeling procedures explicitly include EPA's revised modeling guideline, EPA is approving them as part of the SIP.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial issue and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective February 26, 1988.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 26, 1988. This action may not be challenged later in proceeding to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations.

Dated: December 7, 1987.

Lee M. Thomas,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart B—Alabama

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.60 is amended by redesignating paragraph (c) as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 52.60 Significant deterioration of air quality.

* * * * *

(b) On March 24, 1987, the Alabama Department of Environmental Management submitted a letter committing the State of Alabama to

require that modeling for PSD permits be done only in accordance with the "Guideline on Air Quality Models (Revised)" or other models approved by EPA.

[FR Doc. 87-28609 Filed 12-24-87; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL-3301-9; EPA Docket No. AM025DE]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Miscellaneous Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This Notice approves a revision to Delaware's State Implementation Plan (SIP). The revision consist of amending the State of Delaware's air pollution Regulation II—Permits. EPA has reviewed this revision and has concluded that it meets all the requirements of the Clean Air Act and 40 CFR Part 51. Therefore, EPA is approving this amendment as a revision to the Delaware SIP.

DATES: This action is a Direct Final Rule and is effective February 26, 1988, unless notice is received by January 27, 1988, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, (3AM13), Chief, Delmarva/DC Section at the EPA Regional Office address listed below. Copies of the SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Esther Steinberg (3AM11).

Department of Natural Resources and Environmental Control, Division of Air and Waste Management, Air Resources Section, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901, Attn: Mr. Robert R. French.

Public Information Reference Unit, U.S. Environmental Protection Agency, EPA Library, Room 2922, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin A. Magerr (3AM13), at the EPA Region III address listed above or call (215) 597-6863.

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1987, the State of Delaware submitted to EPA Region III a Secretarial Order announcing the adoption of several amendments to its State Regulations. The State requested that these amendments be approved as revisions of the Delaware SIP. The State provided documentation that a public hearing was held as required by 40 CFR 51.4. The hearing was held on November 17, 1986, in the New Castle Office, after adequate public notice was given.

In addition to the amended provision mentioned in the Summary of this notice, the State submitted revisions to the State's GEP Stack Height and Opacity Regulations. EPA's proposed action on these regulations will be discussed in separate Notices. Also, the State submitted changes to its section 10.1 of Regulation XXI, Emission Standards for Hazardous Air Pollutants. This chang was initiated to reflect typographical corrections made to the Federal National Emission Standards for Hazardous Air Pollutants (NESHAP)—Asbestos regulation (51 FR 8199). The State has a delegated NESHAP program; therefore, the change does not affect its SIP.

Regulation Description

Section 2.7 of Regulation II, Permits, has been amended to read as follows: An operating permit may be valid for an indefinite period unless the equipment or operation for which a permit is written has controlled emissions of 100 tons or more per year of any air contaminant, in which case the permit shall be valid for not more than a five-year period and shall be evaluated prior to re-issuance to determine if permitted emission limits are appropriate. This regulation change will limit operating permits to five years for sources that emit 100 tons or more per year of any air contaminant. This would require these sources to undergo permit re-evaluation every five years. Prior to this amendment, operating permits were valid for an indefinite period.

EPA Action

EPA has reviewed this amendment and believes there will be no adverse affects on air quality if approved. Furthermore, the revisions meet the requirements under 40 CFR Part 51, and section 110 of the Clean Air Act. Therefore, EPA is approving this regulatory revision to the Delaware SIP. By taking this action EPA is approving as part of the SIP the mechanism by which Delaware issues operating permits. This action does *not* constitute EPA pre-approval of the provisions of any such permit. To the extent that any such permit is issued to approve any operation which is contrary to the requirements of the existing Delaware SIP, the relevant terms of the existing SIP would remain the federally-enforcable obligation of the permitted source unless and until the permit terms are submitted to and finally approved by EPA as a SIP provision.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709). The Office of Management and Budget has exempted this rule from the requirement of section 3 of the Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from the date of publication). This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR 52

Air pollution control, Incorporation by reference, Particulate matter, Lead, Nitrogen dioxide, Ozone, Sulfur dioxide.

Note.—Incorporation by reference of the State Implementation Plan for the State of Delaware was approved by the Director of the **Federal Register** on July 1, 1982.

Date: December 8, 1987.

Lee M. Thomas

Administrator.

40 CFR 52, Subpart I, is amended as follows:

PART 52—[AMENDED]

Subpart I—Delaware

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.420 is revised by adding paragraph (c) (37) as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(37) Revision submitted by the State of Delaware on March 6, 1987, consisting of amendment to Regulation II-Permits.

(i) Incorporation by reference. State of Delaware Order No. 87-A-2 (Introduction, Findings of Fad and (1) of the order which amends Section 2.7 of Regulation II) which was issued on February 18, 1987.

[FR Doc. 87-28610 Filed 12-24-87; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Part 455

Medicaid Program; Withholding of Medicaid Payments for Fraud or Willful Misrepresentation

AGENCY: Office of the Secretary, HHS, Office of Inspector General (OIG).

ACTION: Final rule.

SUMMARY: This final rule specifically encourages State Medicaid agencies to withhold program payments to providers without first granting administrative review where the State agency has reliable evidence of fraudulent activity by the provider. These changes serve both to reinforce and strengthen existing State Medicaid agency responsibilities in the withholding of program funds, and to bring Medicaid program regulations in line with existing Medicare policy in this area.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: James Patton, Office of Investigations, (301) 594–3957.

SUPPLEMENTARY INFORMATION:

I. Background

On December 10, 1986, the Office of Inspector General published a notice of proposed rulemaking in the **Federal Register** (51 FR 44490) that was specifically designed to encourage Medicaid State agencies to withhold all Medicaid payments to any provider where the State agency had reliable evidence that the provider had committed fraud against the program, or where the provider was under criminal investigation. The proposed rulemaking was prepared in response to specific problems brought to the OIG's attention over the inability of some States to withhold Medicaid program payments to providers where overpayments were made as a result of potential fraud. In each instance, the requirements for administrative review prior to withholding appeared to have caused these States significant problems where criminal investigations were being conducted by either OIG's Office of Investigations or by the State's Medicaid Fraud Control Unit.

As indicated in the preamble to the proposed regulations, where such administrative review requirements are in place, there appears to be a major problem in the State agency's ability to withhold Medicaid payments to providers under criminal investigation. In many instances, criminal investigators have been reluctant to allow any withholding action against providers since their case could be jeopardized if a hearing was held. The OIG believes that this inability to stop the flow of money has, in turn, resulted in additional overpayments and has hampered efforts already undertaken by the State Medicaid agency to recover overpayments.

Medicare withholding policy

For years, it has been Departmental policy to withhold payments to Medicare providers without the initiation of administrative review procedures at the point when reliable evidence of fraud or misrepresentation has been gathered. Current Medicare regulations at 42 CFR 405.371(b) state that prior administrative review should *not* be provided where there is reliable evidence that the circumstances giving rise to the need for suspension of payments involve fraud or willful misrepresentation. All withholding action taken under Medicare's regulatory authority is for a temporary period, pending resolution of the issues raised, and is only taken with the approval of the investigative or prosecuting authority that may be involved.

II. Provisions of the Proposed Regulations

The proposed regulations were designed to provide Federal encouragement and acquiescence for States to withhold Medicaid reimbursements if the State agency had reliable evidence that: (i) The provider had committed fraud against the program, or (ii) the provider was presently under criminal investigation.

Under the proposed provisions—

- State Medicaid agencies would not be required to institute administrative hearings prior to the withholding of payments since such review may adversely affect or compromise a criminal or civil fraud proceeding already initiated. A provider would still be granted an administrative review prior to withholding payments in those instances where such rights are so established and required by State law.
- Withholding of Medicaid payments would remain in effect until such time as (i) the State agency or prosecuting authorities conclude that fraud has not been committed by the provider, or (ii) all legal proceedings are concluded against the provider.
- The provider would continue to be credited for services furnished, even though payments would be temporarily withheld.
- Providers would receive concurrent rather than advance notice of withholding since such withholding is not a final action.

III. Response to Public Comments

In response to the proposed rule, we received a total of eighteen timely comments from various health care organizations and associations, State agencies and private individuals. Set forth below is a summary of these comments and our response to the concerns raised.

A. Nature of Withholding Action

Comment: Several commenters believed that the proposed regulations give the State Medicaid agency inherent and excessive discretion to withhold program payments. They indicated that such authority could result in arbitrary or unjustified withholding of payments by the State agency. Because of the potential for abuse, a number of commenters also felt that criminal charges should first be brought against the provider before any program funds are withheld.

Response: Prior to any withholding action, the State Medicaid agency is expected and encouraged to fully consider: (1) All reliable evidence, (2) the impact on program beneficiaries, and (3) the length of time anticipated between the imposition of the withholding action and the bringing of formal charges. As indicated in the preamble to the proposed regulations, the overlying purpose of this rule is to protect the integrity of Medicaid program funds and to assure that program beneficiaries receive services for which reimbursement is made.

The specific authority to withhold program payments where there is reliable evidence of fraud or willful misrepresentation has been firmly established in case law. In *Peterson* v. *Weinberger*, 508 F. 2d 45 (5th Cir. 1975), *cert den.* 423 U.S. 830, for example, the U.S. Court of Appeals determined that a Medicare provider has no due process right to a hearing where funds are suspended during the course of a fraud investigation in accordance with 42 CFR 405.371(b). Following suit in a recent case, the District Court for the Southern District of Florida upheld the withholding of Medicare payments and held that plaintiffs are not entitled to a hearing while funds are being temporarily withheld in accordance with 42 CFR 405.371(b). (*Neurological Associates—H. Hooshmand, M.D.* v. *Bowen*, Civ. Action No. 86–8374 (S.D. Fla., March 17, 1987.)

In addition, in *Kresbach* v. *Heckler*, 617 F. Supp. 548 (D. Neb. 1985), the Court drew a clear distinction between a prospective exclusion under 42 U.S.C. 1395(d)(1) where a party would be entitled to a prior hearing, and a suspension of reimbursement in accordance with program regulations at 42 CFR 405.371(b) which does not require a prior hearing.

We indicated in the preamble to the proposed regulations that we fully expect the State agency to confer with, and receive the concurrence of, the investigative or prosecuting authorities conducting the investigation *prior to* imposing any withholding action under the Medicaid program. We believe that this approach should effectively prevent the abuses envisioned in the public comments. Medicare withholding cases are handled in a similar fashion, with the investigative agency initiating the specific request to the Medicare contractor to suspend program payments, and we believe that this process has worked efficiently.

As an additional protection, our regulations continue to state that if an administrative review prior to any withholding action is required by State law, such a hearing is to be held. No withholding action should be taken that contradicts specific State law.

Finally, we believe that requiring the bringing of criminal charges against a provider before the State can suspend payments would defeat the purpose of these regulations. By specifically encouraging States to withhold program payments on a timely basis where there is reliable evidence of fraud or willful misrepresentation, we are attempting to stop the payment of Medicaid funds at an early point so that more costly efforts of recouping monies already paid will not be necessary.

Comment: Several of the comments received stated that the standard for "reliable evidence of fraud" was not clear, and that term, along with the terms "willful misrepresentation" and "criminal investigation," were ambiguous and open to varying interpretation. A number of commenters also noted that criminal investigations may begin for the most spurious of reasons, are often quite protracted and unsuccessful, and that a withholding action merely because a provider is under criminal investigation would impose a severe financial penalty without benefit of proper review by a court.

Response: We have intentionally omitted specific definitions for the terms cited above so as not to limit State agency actions unnecessarily and due to the fact that what constitutes "reliable evidence" is not easily and readily definable. While the existence of an ongoing criminal or civil investigation against a provider may be a factor in determining whether there is reliable evidence, reliable evidence should be determined on a case-by-case basis with the State agency looking at all the factors, circumstances and issues at hand. It is expected that State agencies will review all such evidence carefully and will act judiciously on a case-by-case basis when contemplating any withholding action. We are aware of the impact that withholding funds may have on providers, and expect and encourage States to exercise this authority with care.

We have, however, revised § 455.23(a) to eliminate the proposal that a criminal investigation undertaken against the provider would, in itself, be deemed as reliable evidence for a withholding action. Under this final regulation, the undertaking of a criminal investigation against a provider who may have improperly obtained program funds would be considered a part of the larger circumstances under which payments would be withheld under the Medicaid program.

The Medicare experience in the withholding of program payments has been that such action is not generally taken until an investigation is fairly well developed and there is an expectation of a successful prosecution. We foresee similar implementation of Medicaid withholding actions with the withholding of payments as one of the final actions taken before a case is presented to the State Attorney General's office or whoever is empowered by the State for prosecutions of State Medicaid criminal cases.

B. Amount of Withholding

Comment: Two commenters indicated an inconsistency in the proposed regulations between § 455.23(a)—which stated that the Medicaid agency may withhold payments "in whole or in part"—and § 455.23(b)(3)—which stated that withholding is effective for *all* Medicaid claims. The commenters stated that the withholding of all Medicaid payments overreaches the intent of the regulations, and that a provider's "clean claims" should be processed without delay. One commenter also believed that withholding should be targeted to only the type of Medicaid claims under investigation, and that the amounts withheld should bear some relationship to the amounts believed to be improperly obtained.

Response: It is usually quite difficult to determine which claims are "clean claims" until after the investigation is completed. However, where an investigation is solely and definitively centered on a specific type of claim, a State could choose to withhold payments only on that type claim, e.g., nursing home claims, office visits, hospital care. Accordingly, we have revised section 455.23(b)(3) to indicate that notice to the provider is to specify, where appropriate, which type or types of the provider's Medicaid claims are affected by a withholding action.

As to the withholding of program payments only up to the amount of a potential overpayment, we had originally contemplated the inclusion of such a provision in the proposed regulations. However, we ultimately rejected this approach due to the difficulty in determining the final overpayment amount at the point at which withholding occurs. Any withholding in excess of the actual determined overpayment will be returned to the provider promptly upon final resolution of the case.

Comment: One commenter indicated that the standards in § 455.23(a) should be further clarified to state that any alleged fraud or willful misrepresentation be related to improperly obtained Medicaid payments only; unrelated matters, such as deceptive advertising, should not be the basis for withholding payments without due process protection.

Response: We agree with this comment, and have revised this section accordingly to indicate that any fraud or willful misrepresentation that serves as the basis for the withholding of payments must be related specifically to monies obtained under the Medicaid program.

Comment: Two commenters felt that before any withholding action is taken evidence should clearly indicate that only those individuals at the highest level of facility management or those having ownership interest, and not merely lower level employees, were involved in the fraud or willful misrepresentation at issue. Both commenters felt that program funds should not be withheld from a corporation if a corporate employee is defrauding both the corporation and the Government. In addition, one commenter stated that there should exist a substantial risk that funds could not otherwise be recovered before undertaking any withholding action.

Response: We are sensitive to the point raised by the commenters with respect to employer/employee

involvement in any alleged fraud or willful misrepresentation, however, it must be recognized that employers and principals are generally responsible for the acts of agents and employees acting within the scope of their authority or employment. Where an employee is defrauding *both* the employer and the program, it is anticipated that owners or managers will cooperate fully with investigative officials in such instances to make known the facts and to determine where culpability lies.

As to substantial risk that funds could not be otherwise recovered before withholding payment, we have clearly stated that the overlying purpose of this withholding action is to protect the Government's interest by forestalling the time and expense of attempting to collect program overpayments at a later date through court proceedings or other means. While there may be little or no risk in recovering payments against a provider who is financially sound, such recoupments, after the fact, prove to be protracted and quite costly to the program. A withholding action is designed to eliminate the unnecessary time and cost of recouping past improper payments.

C. Timing of a Withholding Action

Comment: Several commenters raised the issue of the need to set specific time frames for conducting investigations, taking withholding actions and notifying providers. The proposed regulations stated that any withholding action is "temporary." Several of those individuals or organizations responding to this provision indicated that any indefinite withholding of payments serves to punish the provider unnecessarily. They recommended that any withholding action without an administrative hearing be limited to a specified period, e.g., 30 or 90 days, and that the judicial process be invoked if a longer period of time is required.

In addition, some commenters felt that the State Medicaid agency should also be required to complete its investigation against the provider within a specified period, after which Medicaid reimbursement would be reinstated until such time as the State obtains "reliable evidence" of a violation. Still other commenters added that the proposed rule should be amended to require the State agency to give providers prompt written notice as soon as the investigation is completed, and a determination made as to whether there is sufficient evidence to file charges.

Response: In response to these concerns, we will be advising all State Medicaid and investigative agencies of our expectation that they act expeditiously both in addressing any case in which a withholding action has be undertaken and in notifying the provider when the investigation has been terminated. Under normal circumstances, it is anticipated that a withholding action will not exceed one year and will be periodically reviewed so as to determine whether the circumstances that gave rise to the withholding action still exist. We do not believe, however, that we can mandate a specific time limit in which a criminal investigation can be conducted, as suggested, without disadvantaging such investigation.

We have recently provided similar instructions to all Regional Office investigators advising them to take prompt criminal, civil money penalty and sanction action on all Medicare cases where withholding has been invoked by the carrier and to notify the provider expeditiously when the investigation has been terminated.

Comment: Several organizations believe that where it is determined that the provider is entitled to all Medicaid payments withheld, payment should be made within a specified time period of the determination and that interest be paid on the balance due for the duration of the withholding.

Response: While we are not setting forth in regulations a set period by which repayment should be made under a favorable determination to a provider, we are instructing State Medicaid agencies to make prompt payment in such situations. We have not specifically addressed the issue of interest in these regulations, and we will defer to State procedures in this matter.

Comment: Two professional organizations commented that the proposed regulations should be amended to authorize the withholding of Medicaid payments for only those claims filed on or after the withholding action is initiated. These commenters indicated that unless this restriction was added, withholding could effect past due amounts not yet reimbursed which should be properly payable to the provider.

Response: The withholding of any related claim that can go towards making the Government whole should be taken into consideration for purposes of recoupment of program funds. We clearly do not want to make payment on *any* claims, be they past due or in the future, that are deemed questionable. Part of the intent of withholding program payments is to build up a type of escrow account out of which any overpayments can be deducted when the criminal investigation is ultimately concluded. As indicated in our above response, however, § 455.23(b)(3) is being revised to indicate that, *where appropriate*, monies not involving a questionable area, i.e., an area not under criminal investigation, may be exempt from any withholding action.

D. Notice as to Withholding Actions

Comment: The notice requirements contained in proposed § 455.23(b) exempt the State Medicaid agency from specifically identifying the nature of allegations that precipitated the withholding. One commenter stated that this requirement appeared to be in direct opposition to the requirement in § 455.23(b)(4) that a provider be accorded the right to submit written evidence to contest the withholding action. The commenter believed that specific identification of the nature of the allegations should be required of the State agency.

Response: We have accepted this comment in part and have, accordingly, revised § 455.23(b) to indicate that the notice must disclose the general nature of any withholding action. This notice need not discuss, however, any of the specific allegations in the ongoing investigation since such disclosure may jeopardize the case being developed by the State against the provider.

E. Scope of Withholding Actions

Comment: A number of commenters stated that many nursing homes and other facilities maintain a large percentage of patients for whom payment is being made under the Medicaid program. It was stated that to withhold all Medicaid payments to providers of this type could essentially put these facilities out of business, causing hardship to the Medicaid beneficiaries as well.

Response: We recognize the hardship that can be placed on a number of program beneficiaries and on certain types of providers that service a large percentage of these individuals as a result of any withholding action. While these providers will still be free to treat and receive reimbursements from private-pay patients, we, of course, are mindful of the potential impact of any withholding action against these types of providers and expect States to proceed cautiously to assure that providers of this type are not subject to payment suspension until such action is clearly necessary. In addition, because of the potential adverse effect on program beneficiaries, we believe that cases of these types should be given priority handling to expedite their resolution.

As indicated above, the primary purpose in any withholding action is to safeguard Medicaid dollars and to protect Medicaid program beneficiaries.

Comment: While the proposed regulations stated that a provider may be granted prior administrative review where such rights are so established and required by State law, two State agencies responding to this rulemaking indicated that their State laws requiring such mandatory review will defeat the purpose of the proposed rule and will serve to avoid the stoppage of payments.

Response: Our intent in these regulations is to provide Federal encouragement and acquiescence to those States that are authorized to take a withholding action against providers without first going through a protracted administrative hearing process. While States are free to seek State legislative changes where an administrative review process is currently required prior to any withholding action, these regulations are not intended to circumvent any existing State requirements in this area.

Comment: One commenter was concerned that these regulations might be construed as somehow limiting the authority of the State to take withholding action not specifically authorized by the rule. The State agency commenting indicated that it is currently authorized to withhold Medicaid provider payments for circumstances less than fraud, misrepresentation or criminal investigation, and, as such, is a stronger authority than our proposed regulations.

Response: These regulations are designed as minimum requirements for imposing withholding actions against providers. States may exercise broader power in this regard where State law or regulations so provide.

IV. Regulatory Impact Analysis

A. Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be performed for any "major rule." A major rule is one that:

- Has an annual effect on the national economy of $100 million or more;
- Results in a major increase in costs or prices for consumers, any industries, any governmental agencies, or any geographic regions; or,
- Has a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or import markets.

We have determined that this final rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291 and that a complete regulatory impact analysis is not required. As indicated, the intent of this rule is to encourage State agencies to withhold payments to Medicaid providers where there is reliable evidence of fraudulent activity by the provider under the Medicaid program, and to make clear that State agencies will not offer administrative review if such review would adversely effect investigations or proceedings already initiated. As further indicated above, it is expected that the withholding of provider payments by State Medicaid agencies will be reserved for only the most flagrant of violations and where all other appropriate avenues short of suspending payments is exhausted. The amount of program payments withheld to providers in all instances is not expected to exceed the $100 million threshold in any one fiscal year.

B. Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act of 1980 (Pub. L. 93–354), we are to prepare a regulatory flexibility analysis for each rulemaking, unless the Secretary certifies that the regulation does not have a "significant impact on a substantial number of small entities." The analysis is intended to explain the potential effect the rulemaking action has on small businesses and other small entities, and to develop lower cost or burden alternatives. While these final regulations could have an adverse impact on some small providers, we believe that the criminal investigation or nature of the suspected fraud, rather than the size of the provider, is the determining factor in withholding payments. Because of this reason, we believe a regulatory flexibility analysis is not required.

List of Subjects in 42 CFR Part 455

Fraud, Grant programs—health, Health facilities, Health professions, Investigations, Medicaid, Reporting and recordkeeping requirements.

TITLE 42—PUBLIC HEALTH

42 CFR Part 455, Subpart A is amended as follows:

PART 455—PROGRAM INTEGRITY: MEDICAID

1. The authority citation for Part 455 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents for Subpart A is amended by adding a new § 455.23 as follows:

Subpart A—Medicaid Agency Fraud Detection and Investigation Program

* * * * *

455.23 Withholding of payments in cases of fraud or willful misrepresentation.

3. In Subpart A, § 455.12 is revised to read as follows:

§ 455.12 State plan requirement.

A State plan must meet the requirements of §§ 455.13 through 455.23.

4. In Subpart A, a new § 455.23 is added to read as follows:

§ 455.23 Withholding of payments in cases of fraud or willful misrepresentation.

(a) *Basis for withholding.* The State Medicaid agency may withhold Medicaid payments, in whole or in part, to a provider upon receipt of reliable evidence that the circumstances giving rise to the need for a withholding of payments involve fraud or willful misrepresentation under the Medicaid program. The State Medicaid agency may withhold payments without first notifying the provider of its intention to withhold such payments. A provider may request, and must be granted, administrative review where State law so requires.

(b) *Notice of withholding.* The State agency must send notice of its withholding of program payments within 5 days of taking such action. The notice must set forth the general allegations as to the nature of the withholding action, but need not disclose any specific information concerning its ongoing investigation. The notice must:

(1) State that payments are being withheld in accordance with this provision;

(2) State that the withholding is for a temporary period, as stated in paragraph (c) of this section, and cite the circumstances under which withholding will be terminated;

(3) Specify, when appropriate, to which type or types of Medicaid claims withholding is effective; and

(4) Inform the provider of the right to submit written evidence for consideration by the agency.

(c) *Duration of withholding.* All withholding of payment actions under this section will be temporary and will not continue after:

(1) The agency or the prosecuting authorities determine that there is insufficient evidence of fraud or willful misrepresentation by the provider; or

(2) Legal proceedings related to the provider's alleged fraud or willful misrepresentation are completed.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: July 29, 1987.

R.P. Kusserow,

Inspector General, Department of Health and Human Services.

Approved: November 5, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-29589 Filed 12-24-87; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6770]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, Room 416, 500 C Street SW., Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et. seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State	Location	Community number	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Current effective map date
Georgia	White County, Unincorporated Areas	130191	November 9, 1987, Emerg	6-11-76
Do	Jones County, Unincorporated Areas	130434	November 10, 1987, Emerg	5-27-77
Louisiana	Richwood, Town of, Ouachita County [1]	220378	February 9, 1978, Emerg.; September 30, 1987, Reg.; September 30, 1987, Susp.; November 5, 1987, Rein.	9-30-87
Massachusetts	Hadley, Town of, Hampshire County	250163	February 11, 1972, Emerg.; June 1, 1978, Reg.; July 3, 1978, Susp.; November 5, 1987, Rein.	6-1-78
Pennsylvania	Texas, Township of, Wayne County	422176	July 24, 1975, Emerg.; September 30, 1987, Reg., September 30, 1987, Susp.; November 6, 1987, Rein.	9-30-87
Do	Rome, Township of, Bradford County [1]	422639	January 6, 1976, Emerg.; September 1, 1986, Reg.; September 1, 1986, Susp.; November 9, 1987, Rein.	9-1-86
Alabama	Hollywood, Town of, Jackson County	010111	July 26, 1974, Emerg.; September 29, 1986, Reg.; September 29, 1986, Susp.; November 13, 1987, Rein.	9-29-86
Minnesota	Madelia, City of, Watonwan County [1]	270517	November 16, 1987, Emerg.; November 16, 1987, Reg.;	9-1-87
Do	Fillmore County, Unincorporated Areas [1]	270124	April 16, 1974, Emerg.; September 18, 1987, Reg.; September 18, 1987, Susp.; November 16, 1987, Rein.	9-18-87

State	Location	Community number	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Current effective map date
Do	Raymond, City of, Kandiyohi County [1]	270222	March 5, 1975, Emerg.; September 18, 1987, Reg.; September 18, 1987, Susp.; November 16, 1987, Rein.	9-18-87
Ohio	Orangeville, Village of, Trumbull County	390751	May 28, 1976, Emerg.; September 4, 1987, Reg.; September 4, 1987, Susp.; November 16, 1987, Rein.	9-4-87
Do	Sherrodsville, Village of, Carroll County [1]	390054	December 20, 1976, Emerg.; September 4, 1987, Reg.; September 4, 1987, Susp.; November 16, 1987, Rein.	9-4-87
New York	Chestnut Ridge, Village of, Rockland County	361615	November 30, 1987, Emerg.;	
Alabama	Hale County, Unincorporated Areas [1]	010094	April 14, 1987, Emerg.; July 1, 1987, Reg.; July 1, 1987, Susp.; November 9, 1987, Rein.	7-1-87
Pennsylvania	Tower City, Borough of, Schuylkill County [1]	420790	April 29, 1975, Emerg.; September 1, 1986, Reg.; September 1, 1986, Susp.; November 17, 1987, Rein.	9-1-86
Iowa	Adel, City of, Dallas County [1]	190103	December 17, 1874, Emerg.; August 4, 1987, Reg.; August 4, 1987, Susp.; November 17, 1987, Rein.	8-4-87
Mississippi	Scott County, Unincorporated Areas [1]	280280	April 23, 1979, Emerg.; September 1, 1987, Reg.; September 1, 1987, Susp.; November 27, 1987, Rein.	9-1-87
Region III—Regular Conversions				
Pennsylvania	Avondale, Borough of	421473	November 4, 1987, Suspension Withdrawn	11-4-87
Region IV				
Florida	Dade County, Unincorporated Areas	125098	do	11-4-87
Region VIII—Minimal Conversion				
Wyoming	Elk Mountain, Town of, Carbon County	560093	do	11-4-87
Region III				
Pennsylvania	Pillow, Borough of, Dauphin County	420392	November 19, 1987, Suspension Withdrawn	11-19-87
Do	Schuylkill Haven, Borough of, Schuylkill County.	420787	do	11-19-87
Do	West Vincent, Township of, Chester County	421499	do	11-19-87
West Virginia	Rainelle, Town of, Greenbrier County	540228	do	11-19-87
Region IX				
Arizona	Cottonwood, Town of, Yavapai County	040096	do	11-19-87
Region VIII—Minimal Conversion				
North Dakota	Trenton, Township of, Williams County	380679	do	11-19-87

[1] Minimal Conversions.

Code for reading fourth column.—Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

Issued: December 21, 1987.

[FR Doc. 87-29588 Filed 12-24-87; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-492; RM-5390]

Radio Broadcasting Services; Siloam Springs, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel *266A for noncommercial educational Channel *212A at Siloam Springs, Arkansas, and modifies the license of Station KLRC(FM), in response to a petition filed by John Brown University. With this action, the proceeding is terminated.

EFFECTIVE DATE: February 4, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-492, adopted December 1, 1987, and released December 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW. Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Arkansas by adding Channel *266A at Siloam Springs.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-29600 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Changes in List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) regulates international trade in certain animals and plants. Species for which trade is controlled are listed in Appendices I, II, and III to the Convention. The nations participating in the Convention, including the United States, recently adopted amendments to Appendices I and II. The United States did not enter a reservation on any of the species amendments made at the Sixth Meeting of the Conference of the Parties to the Convention. This document incorporates these amendments into the Fish and Wildlife Service's regulations implementing the Convention.

DATE: The amendments set forth in this notice entered into effect on October 22, 1987, under the terms of the Convention. Therefore, this rule is effective December 28, 1987.

ADDRESS: Please send correspondence concerning this document to the Office of Scientific Authority; Mail Stop: Room 527, Matomic Building; U.S. Fish and Wildlife Service; Department of the Interior; Washington, DC 20240. Materials received will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in room 537, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (202) 653-5948.

SUPPLEMENTARY INFORMATION:

Background

The Convention regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily now threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes native species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The text of any proposal must be communicated to the Convention's Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate their responses to all Parties no later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

Action of the Parties

The Sixth Meeting of the Conference of the Parties to the Convention was held on July 12-24, 1987, in Ottawa, Canada. At the meeting, the Parties considered 116 proposals to amend the Appendices. These were listed in the **Federal Register** on July 10, 1987, for U.S. proposals (52 FR 26049) and for proposals by the other Parties (52 FR 26043). The proposals that were adopted by the Conference of the Parties were announced in the **Federal Register** (52 FR 35743; September 23, 1987), together with a request for comments from the public on whether the U.S. Fish and Wildlife Service (Service) should recommend that the United States enter a reservation on any of the amendments. The effect of a reservation would be to exempt this country from implementing the Convention for a particular species. More complete discussions of any practical effect of entering reservations and reasons for or against entering reservations are contained in 50 FR 48212 (November 22, 1985) and 52 FR 35743.

Several proposals were withdrawn by the proponent or rejected by vote of the Parties as announced in 52 FR 35743. The proposed amendments that were accepted by the Parties were also announced in 52 FR 35743, and the consequent changes that will be incorporated into the Code of Federal Regulations are printed at the end of this notice.

In addition to accepting the various species amendments to Appendix I and II, the Parties agreed to continue an export quota for leopards, accepted amendments with export quotas for populations of crocodiles and endorsed a clarification to the listing of chinchillas in the appendices.

The Parties agreed to continue the export quota system for leopards (*Panthera pardus*) as initiated in resolution Conf. 4.13 and restated in Conf. 5.13. Annual export quotas (shown in parentheses) were accepted for specimens from the following countries: Botswana (80); Central African Republic (40), Ethiopia (500), Kenya (80), Malawi (20), Mozambique (60), Tanzania (250), Zambia (300) and Zimbabwe (500). Changes in recommendations from previous quotas include: an increase of 150 for Zimbabwe, the establishment of quotas for Central African Republic and Ethiopia, and a clarification that the export quotas include specimens exported as hunting trophies.

The Parties accepted amendments for populations of four species of crocodiles in 11 countries. As adopted, these amendments established export quotas (shown in parentheses for the years 1987 through 1989) for populations of Nile crocodiles (*Crocodylus niloticus*) in the following countries: Botswana (2,000 in each year), Cameroon (100 in each year), Congo (150 in each year), Kenya (5,000 of which only 1,000 are to be taken

directly from the wild in each year), Malawi (900, 1,000, and 1,300 of which only 700 are to be taken directly from the wild in each year), Mozambique (1,000, 1,000 and 4,000 with the increase in 1989 to accommodate specimens from ranching operations), Madagascar (1,000 in each year), Tanzania (2,000 in each year), Sudan (5,000 in each year), Zambia (3,350, 5,600, 8,200 of which only 2,000 are to be taken from the wild). In terms of specimens taken directly from the wild, these quotas represent an increase for Cameroon, Kenya, Malawi and Tanzania and prescribe a decrease in the quota for the Congo.

In addition, the export quota of 4,000 for the saltwater crocodile population in Indonesia was accepted, an increase of 2,000 specimens. Furthermore, the amendments to transfer the populations of *Crocodylus cataphractus* and *Osteolaemus tetraspis* in the Congo from Appendix I to Appendix II were accepted by the Parties with annual export quotas of 600 and 500, respectively.

Upon the recommendations of the Government of Canada and the Convention's Secretariat, the Parties in committee endorsed the clarification that the notation "population of South America" as originally applied to the listing of *Chinchilla* spp. in the Appendices as meaning that chinchillas bred in countries outside South America are not included in the Appendices. This does not result in any change in the way that the United States has been regulating chinchillas raised in the United States. Inasmuch as the original listing of *Chinchilla* spp. also included *Chinchilla brevicaudata boliviana*, the clarification also applies to that taxon which retains its earlier listing date.

Comments Received and Recent Decisions

The only comment received with regard to the announced actions of the Parties was from TRAFFIC (U.S.A.). This organization strongly urged the Service not to enter reservations on any of the accepted amendments to the Appendices. TRAFFIC felt that the United States "should continue to serve as a model country upholding the full spirit of the Convention."

This rule simply implements changes in the list of species in the Convention's Appendices that already have been approved by the Conference of the Parties, and that the United States is bound to accept unless it enters any reservations. The Service does not believe that implementation of any of the accepted amendments would be contrary to the interests or law of the United States. The period of time during which the United States could have entered a reservation on any of these amendments ended on October 22, 1987. The Service did not recommend the entry of any reservations, and none were entered by the United States. Earlier **Federal Register** notices informed the public about these amendments and allowed an opportunity for comment on them. Therefore, the Department of the Interior has determined that good cause exists for making this rule effective upon publication (5 U.S.C. 553(d)). Accordingly, paragraph (f) Section 23.23 of 50 CFR has been amended at the conclusion of this rulemaking.

Note—The Department has determined that amendments to the Convention's Appendices, which result from actions of the Parties to the Convention, do not require the preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) The Department also has determined that such amendments are not rules for purposes of Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This document does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 23

Endangered and threatened plants, Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Regulation Promulgation

For reasons set out in the preamble of this document, Part 23 of Title 50, Code of Federal Regulations is amended as follows:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 should be revised to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*

§ 23.23 [Amended]

1. Amend paragraph (f) of § 23.23 by revising the existing entries for particular species on the list to read as follows:

Species	Common name	Appendix	Date listed (month/day/year)
ANIMAL KINGDOM:	ANIMALS		
CLASS MAMMALIA:	MAMMALS:		
Order Rodentia:	Rodents:		
Chinchilla spp. (except those chinchillas bred in countries outside of South America).	Chinchilla	I	2/4/77
C. brevicaudata boliviana (except those chinchillas bred in countries outside of South America).	Chinchilla	I	7/1/75
Order Carnivora:	Carnivores: Cats, Bears, etc.:		
Panthera tigris	Tiger	I	7/1/75
Order Artiodactyla:	Even-toed Ungulates:		
Vicugna vicugna (except populations listed below)	Vicuna	I	7/1/75
CLASS AVES:	BIRDS:		
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories:		
Probosciger aterrimus	Great black cockatoo, Palm cockatoo	I	7/1/75
Order Passeriformes:	Perching Birds:		
Gubernatrix cristata	Yellow cardinal	II	7/14/76
CLASS REPTILIA:	REPTILES:		
Order Crocodylia:	Crocodiles, Alligators, Caimans, Gavials:		
Crocodylus cataphractus (except Congo population)	African slender-snouted crocodile	I	7/1/75
Osteolamus tetraspis (except subspecies and populations listed below)	Dwarf crocodile	I	2/4/77
PHYLUM ARTHROPODA:	ARTHROPODS:		
Class Insecta	Insects:		
Ornithoptera alexandrae	Queen Alexandra's birdwing butterfly	I	2/4/77
PLANT KINGDOM:	PLANTS:		
Family Cupressaceae:	Cypresses:		
Fitz-Roya cupressoides	Fitzroya, Alerce	I	7/1/75

2. Amend paragraph (f) of § 23.23 by adding to the list the following species or other groups of animals and plants in alphabetical order under the appropriate taxonomic categories:

Species	Common name	Appendix	Date listed (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
Order Chiroptera:	Bats:		
Pteropus insularis	Truk flying fox	II	10/22/87
P. macrotis	Big-eared flying fox	II	10/22/87
P. mariannus	Mariana flying fox	II	10/22/87
P. molossinus	Ponape flying fox	II	10/22/87
P. phaeocephalus	Mortlock fruit bat	II	10/22/87
P. pilosus	Palau flying fox	II	10/22/87
P. samoensis	Samoa flying fox	II	10/22/87
P. tokudae	Tokuda's flying fox	II	10/22/87
P. tonganus	Insular flying fox	II	10/22/87
Order Carnivora:	Carnivores: Cats, Bears, etc:		
Dusicyon gymnocercus	Pampas fox	II	10/22/87
Felis yagouaroundi	Jaguarundi	I	7/1/75
Order Artiodactyla:	Even-toed Ungulates:		
Catagonus wagneri	Chacoan or giant peccary	I	10/22/87
Tayassu spp. (except populations in the United States)	Collared and White-lipped peccaries	II	10/22/87
Vicugna vicugna (Populations in Paranicota Province, Ia. Region of Tarapaca in Chile, and populations of Pampa Galeras Natl. Reserve and Nuclear Zone, Pedregal, Oscoonta and Sawacocha (Province of Lucanas), Sais Pictoani (Province of Azangaro), Sais Tupac Amaru (Province of Junin), and of Salinas Aguada Blance Natl. Reserve (Provinces of Arequipa and Caillorna) in Peru (under specific conditions including export of cloth only).	Vicuna	II	10/22/87
CLASS AVES:	BIRDS:		
Order Ciconiiformes:	Herons, Storks, Ibises, Flamingos:		
Balaeniceps rex	Whale-headed stork	II	10/22/87
Eudocimus ruber	Scarlet ibis	II	10/22/87
Mycteria cinerea	Milky wood stork	I	10/22/87
Order Galliformes:	Pheasants, Curassows, Megapodes Hoatzins:		
Rheinartia ocellata	Crested argus pheasant	I	10/22/87
Order Gruiformes:	Cranes, Rails, Bustards:		
Otididae spp. (All species except those in App. I or with earlier date in App. II).	Bustards	II	10/22/87
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories:		
Anodorhynchus hyacinthinus	Hyacinth macaw	I	6/6/81
Ara militaris	Military macaw	I	6/6/81
Order Apodiformes:	Swifts, Hummingbirds:		
Trochilidae spp.	Hummingbirds	II	10/22/87
Order Passeriformes:	Perching Birds:		
Paroaria capitata	Yellow-billed cardinal	II	10/22/87
Paroaria coronata	Red-crested cardinal	II	10/22/87
CLASS REPTILIA:	REPTILES:		
Order Crocodylia:	Crocodiles, Alligators, Caimans, Gavials:		
Crocodylus cataphractus (Congo population only)	African slender-snouted crocodile	II	7/1/75
Osteolaemus tetraspis (Population of the Congo)	Dwarf crocodile	II	2/4/77
Order Squamata:	Lizards, Snakes:		
Boa constrictor occidentalis	Argentine boa constrictor	I	2/4/77
Gallotia atl. *simonyi*	Hierro giant lizard	I	10/22/87
Podarcis lilfordi	Lilford's wall lizard	II	10/22/87
Podarcis pityusensis	Ibiza wall lizard	II	10/22/87
Vipera ursinii (except populations in the U.S.S.R.	Orsini's viper	I	10/22/87
CLASS AMPHIBIA:	AMPHIBIANS:		
Order Anura:	Frogs, Toads:		
Dendrobates spp.	Poison-dart frogs	II	10/22/87
Dyscophus antongili	Tomato frog	I	10/22/87
Phyllobates spp.	Poison-arrow frogs	II	10/22/87
PHYLUM MOLLUSCS:	MOLLUSCS:		
Class Gastropoda:	Snails:		
Achatinella spp.	Oahu tree snails	I	10/22/87
PHYLUM ARTHROPODA:	ARTHROPODS:		
Class Insecta:	Insects:		
Bhutanitis spp.	Bhutan Glory swallowtails	II	10/22/87
Papilio chikae	Luzon peacock swallowtail	I	10/22/87
Papilio homerus	Homerus swallowtail	I	10/22/87
Papilio hospiton	Corsican swallowtail	I	10/22/87
Teinopalpus spp.	Kaiser-I-Hind butterflies	II	10/22/87
PHYLUM ANNELIDA:	ANNELID WORMS:		
Class Hirudinea:	Leeches:		
Order Arhynchobdelliformes:	Rhynchobedellids:		
Hirundo medicinalis	Medicinal leech	II	10/22/87
PLANT KINGDOM:	PLANTS:		
Family Cactaceae:	Cacti:		
Astrophytum (= *Echinocactus*) *asterias*	Sea urchin cactus, star cactus	I	7/1/75
Family Cycadaceae:	Cycads:		
Cycas beddomei	Beddome cycad	I	2/4/77
Family Nepenthaceae:	Old World pitcher plants:		
Nepenthes Khasiana	Indian tropical pitcher plant	I	10/22/87
Nepenthes spp. (all species except those in app. I)	Tropical pitcher plants	II	10/22/87
Family Orchidaceae:	Orchids:		
Paphiopedilum druryi	Drury tropical lady's slipper	I	7/1/75
Family Sarraceniaceae:	New World pitcher plants:		
Sarracenia spp. and natural hybrids (all species and natural hybrids except species in app. I).	Trumpet pitcher plants	II	10/22/87

3. Amend paragraph (f) of § 23.23 by removing the following existing entries for particular species and animal orders; if all species and genera listed under the order are deleted, also remove the order heading, as follows:

Species	Common name	Appendix	Date listed (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
Order Insectivora:	Insectivores:		
Erinaceus frontalis	African hedgehog	II	7/1/75
Order Lagomorpha:	Rabbits, Hares:		
Nesolagus netscheri	Sumatran short-eared rabbit	I	7/1/75
Order Rodentia:	Rodents:		
Dipodomys phillipsii phillipsii	Phillips' kangaroo rat	II	7/1/75
Lariscus hosei	Four-striped or Bornean black-striped ground squirrel	II	7/1/75
Notomys spp	Australian hopping mice	II	6/28/79
Notomys aquilo	Australian nothern hopping mouse	II	7/1/75
Pseudomys fumeus	Smokey mouse	I	7/1/75
Pseudomys shortridgei	Western pseudo rat, Shortridge's mouse	II	7/1/75
Order Carnivora:	Carnivores: Cats, Bears, etc.:		
Felis yagouaroundi cacomitli	Gulf Coast jaguarundi	I	7/1/75
Felis yagouarondi fossata	Guatemalan jaguarundi	I	7/1/75
Felis yagouaroundi panamensis	Panamanian jaguarundi	I	7/1/75
Felis yagouaroundi tolteca	Sinaloan jaguarundi	I	7/1/75
Order Artiocactyla:	Even-toed Ungulates:		
Tayassu tajacu	Collared peccary	III (Guatemala)	4/23/81
CLASS AVES:	BIRDS:		
Order Galliformes:	Pheasants, Curassows, Megapodes, Hoatzins:		
Lyrurus mlokosiewiczi	Caucasian black grouse	II	2/4/77
Megapodius freycinet abbotti	Abbott's megapode or incubator bird	II	7/1/75
Megapodius freycinet nicobariensis	Nicobar megapode	II	7/1/75
Order Charadriiformes:	Shorebirds, Gulls, Auks:		
Larus brunnicephalus	Brown-headed gull	II	7/1/75
Numenius minutus	Little whimbrel	II	7/1/75
Order Piciformes:	Woodpeckers, Toucans, Jacamars, Barbets:		
Picus squamatus flavirostris	Green scaly-bellied woodpecker	II	7/1/75
Order Passeriformes:	Perching Birds:		
Emblema oculata	Red-eared firetail	II	6/28/79
Psophodes nigrogularis	Western whipbird	II	7/1/75
CLASS REPTILIA:	REPTILES:		
Order Squamata:	Lizards, Snakes:		
Paradelma orientalis	Snake Lizard	II	2/4/77
Thamnophis elegans (=couchi) hammondi	Two-striped garter snake	II	7/1/75
CLASS AMPHIBIA:	AMPHIBIANS:		
Order Caudata:	Salamanders:		
Ambystoma lemaensis	Lake Lerma salamander	II	7/1/75
CLASS OSTEICHTHEYES:	BONY FISHES:		
Order Salmoniformes:	Salmon, Trout:		
Salmo chrysogaster	Mexican golden trout	II	7/1/75
Stenodus leucichthys leucichthys	Beloribitsa	II	7/1/75
Order Cypriniformes:			
Plagopterus argentissimus	Woundfin	II	7/1/75
Ptychocheilus lucius	Colorado River squawfish	II	7/1/75
Order Atheriniformes:	Livebearers:		
Xiphophorus couchianus	Monterrey platyfish	II	7/1/75
PHYLUM MOLLUSCA:	MOLLUSCS:		
Class Pelecypoda (=Bivalvia):	Clams, Mussels:		
Mytilus chorus	Chilean mussel	II	6/28/79
Class Gastropoda:	Snails:		
Coahuilix hubbsi	Coahuilix de Hubbs Caracol	II	7/1/75
Cochlicopina millen	Cochliopina de Miller Caracol	II	7/1/75
Durangonella coahuilae	Durangonella de Coahuila Caracol	II	7/1/75
Mexipyrgus carranzae	Mexipyrgus de Carranza Caracol	II	7/1/75
Mexipyrgus churinceanus	Mexipyrgus de Churince Caracol	II	7/1/75
Mexipyrgus escobedae	Mexipyrgus de Escobeda Caracol	II	7/1/75
Mexipyrgus lugoi	Mexipyrgus de Lugo Caracol	II	7/1/75
Mexipyrgus mojarralis	Mexipyrgus del Oeste del Mojarral Caracol	II	7/1/75
Mexipyrgus multilineatus	Mexipyrgus del Este del Majarral Caracol	II	7/1/75
Mexithauma quadripaludium	Mexithauma de Cuatro Cienegas Caracol	II	7/1/75
Nymphophilus minckleyi	Nymphophilus de Minckley Caracol	II	7/1/75
Paludiscala caramba	Paludiscala Maravillosa Caracol	II	7/1/75
PLANT KINGDOM:	PLANTS:		
Family Cupressaceae:	Cypresses:		
Fitzroya cupressodies (coastal population of Chile)	Fitzroya, Alerce	II	7/1/75
Family Palmae (=Arecaceae):	Palms:		
Chrysalidocarpus lutescens	Yellow palm, Areca palm, Butterfly palm	II	2/4/77

Date: December 14, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-29524 Filed 12-24-87; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 52, No. 248
Monday, December 28, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 330 and 332

Recruitment, Selection, and Placement (General) and Recruitment and Selection Through Competitive Examination

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise the regulations governing placement programs for employees who are subject to involuntary separation, or who have been involuntarily separated, through no fault of their own. The existing regulations do not include the Interagency Placement Assistance Program (IPAP) which was implemented in 1981. The proposed regulations incorporate the IPAP and include minor changes that are needed to update and clarify OPM's current policies and procedures with regard to displaced employees. OPM is seeking one new change in policy in the proposed regulations: to exclude employees who have a rating of unacceptable from coverage under the IPAP and the Displaced Employee Program (DEP).

DATE: Comments must be received on or before February 26, 1988.

ADDRESS: Send or deliver written comments to Curtis J. Smith, Associate Director for Career Entry, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Sylvia Cole, (202) 632–6817.

SUPPLEMENTARY INFORMATION: OPM operates two placement programs for employees who are scheduled to be displaced or have been displaced from their positions—the Interagency Placement Assistance Program (IPAP) and the Displaced Employee Program (DEP). In addition, agencies are required to operate positive placement programs which include establishment of a Reemployment Priority List (RPL) for their own employees who have received a notice of separation by reduction in force (RIF). While the RPL assures employment consideration in the *former* agency, the IPAP and DEP provide reemployment consideration in *other* agencies.

The Personnel Director's Productivity Task Force recommended changes in these placement programs to eliminate duplication. As a result of this recommendation, we reviewed the placement programs OPM operates as well as the ones agencies are required to operate. We concluded that each program provides a specific type of placement assistance and in total, these programs strike an acceptable balance between the commitment of the Government to assist employees who are involuntarily separated from their jobs, and the needs of an agency for flexibility in filling positions. We need to retain the programs we have. However, we plan to make some adjustments so the programs operate more efficiently. These proposed regulations only address the IPAP and DEP.

The IPAP, formerly known as the Voluntary Interagency Placement Program, was created by OPM in 1981 to provide placement assistance as far in advance of an impending work force reduction as possible. Since the Displaced Employee Program (DEP) requires a specific notice of separation which sometimes is not given to the employee until 10 days prior to a reduction in force, there may be insufficient time allowed for placement assistance before separation. The IPAP permits enrollment as soon as an individual employee is identified as surplus and provides assistance in 120-day increments, renewable by the agency. In addition, it provides assistance to employees who are not eligible for placement assistance through the DEP, such as employees serving under Schedule A and B appointments and term appointments. The proposed regulations would incorporate the IPAP into Subpart C of Part 330.

The proposed regulations would also restrict placement assistance under Part 330, Subpart C, to employees who have a performance rating of record above "unacceptable." It is inconsistent with merit principles to require an agency to hire an unacceptable performer when the agency might hire a high quality candidate from outside the Civil Service. This requirement was proposed in a memorandum to agency personnel directors distributed through the Interagency Advisory Group in June, 1986, and it won overwhelming support.

Another change that is included in the proposed regulations would clarify that individuals who retire under the involuntary early retirement provisions of section 8336(d)(1) of title 5, United States Code, are eligible for the DEP. In the past, some confusion has existed about whether or not discontinued service retirees are permitted to register for placement assistance because they are receiving annuities. Since each early retirement costs the retirement system additional funds, it is in the interest of the Federal Government to reemploy these annuitants, if possible.

These regulations would also update the referral procedures for program participants to reflect OPM's current policy of referring DEP and IPAP registrants only to positions that have no higher promotion potential than the position from which the employee was or will be separated.

These regulations would also delete the provision in Part 330, § 330.305, that requires agencies to separate Tenure Group III employees when there are no suitable vacancies for DEP registrants. This provision has not been used since the 1950's and OPM believes that implementing it would be unduly disruptive to agency operations. Consequently, it has been omitted in the proposed regulations.

Subpart G of Part 330 would be updated to reflect current OPM policy on the reemployment of disability retirees who are 60 years of age or over. Eligibility for placement assistance under Subpart G is no longer restricted to disability retirees under age 60, and no prior OPM determination of recovery is required.

Subpart D of Part 330 would be revised to reflect the incorporation of the IPAP in Subpart C; and Part 332, Subpart B, § 332.314, would be revised to clarify that the placement assistance described therein is for DEP eligibles only.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation affects only the procedures used to provide placement assistance to certain Federal employees.

List of Subjects in 5 CFR Parts 330 and 332

Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM proposes to amend 5 CFR Parts 330 and 332 as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for Part 330 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; Section 330.102 issued under 5 U.S.C. 3327; Section 330.201 issued under 5 U.S.C. 3315; Section 330.202 issued under 5 U.S.C. 7701, et seq.; Section 330.401 issued under 5 U.S.C. 3310; Subpart H issued under 5 U.S.C. 3301, 3302, 8337(h), and 8457(b).

2. Subpart C and its heading are revised to read as follows:

Subpart C—Placement Assistance Programs for Displaced Employees

Sec.

Subpart C—Placement Assistance Programs for Displaced Employees

§ 330.301 General.

This subpart covers placement programs for employees who are facing possible separation or have been displaced as a result of agency work force reductions, and employees who are retired on disability or who have incurred compensable on-the-job injury. OPM operates two placement programs that supplement agency positive placement efforts—the Interagency Placement Assistance Program (IPAP) and the Displaced Employee Program (DEP). In general, the IPAP provides placement assistance in advance of an impending work force reduction for employees who have been identified by their agencies as surplus. The DEP provides assistance for career-conditional and career employees who have received a specific notice of separation or who have been separated. The IPAP is also used to refer certain National Guard and Military Reserve Technicians for placement consideration as set forth in Subpart H of this part.

§ 330.302 Eligibility.

(a) For the *IPAP*, the registrant must:

(1) Have a rating above "unacceptable" on his or her most recent performance rating of record as described in § 351.203 of this chapter;

(2) Be serving under a career, career-conditional, term, TAPER, or Schedule A or B appointment in an agency that is not excepted from the competitive service;

(3) Be occupying a position that has been identified as surplus under one of the following conditions:

(i) The position is scheduled to be abolished;

(ii) The agency is scheduled to be abolished;

(iii) The activity in which the position is located is undergoing a management study under the provisions of OMB Circular A–76 and solicitation of bids has begun; or

(iv) The employee has been otherwise targeted for separation.

(b) For the *DEP*, the registrant must:

(1) Have a rating above "unacceptable" on his or her most recent performance rating of record as described in § 351.203 of this chapter (except for individuals qualifying under paragraph (b)(3)(v) of this section);

(2) Be a present or former career or career-conditional employee, or career status employee holding an excepted service appointment, in tenure group I or II as defined in Part 351 of this chapter, in an agency that is not excepted from the competitive service (except that an employee occupying a Schedule C position as defined in Part 213 of this chapter is not entitled to placement assistance); and

(3) Must be subject to one of the following:

(i) Has received a specific notice of separation through reduction in force;

(ii) Has declined a transfer of function to another commuting area or has declined reassignment to another commuting area (as defined in Part 351 of this chapter);

(iii) Has been separated or furloughed because of a compensable injury sustained under the provisions of subchapter I of chapter 81 of title 5, United States Code;

(iv) Has applied for an annuity or has retired under the discontinued service retirement provision in section 8336(d)(1) of title 5, United States Code; or

(v) Has retired for disability under section 8337, 8451 or 8457 of title 5, United States Code.

§ 330.303 Period of eligibility.

IPAP registrants receive placement assistance in 120-day increments renewable by the registering agencies. Career-conditional employees eligible for the DEP receive 1 year of placement assistance and career employees receive 2 years of assistance.

§ 330.304 Nature of assistance.

(a) IPAP and DEP registrants are referred ahead of other candidates when they are qualified and available for vacancies that are expected to last more than 1 year and are filled through competitive registers held by OPM or by an agency with delegated examining authority. No individual may be selected for such a vacancy from an OPM or agency competitive register as long as a qualified DEP registrant is available. Referrals are based on the qualifications of registrants and on the duties of the positions. Placement assistance under both programs is nationwide except for registrants who decline transfer or reassignment outside the commuting area. Eligible employees who decline to relocate may register for placement assistance only within the commuting area of the position from which they will be or were separated; however, these registrants may transfer their eligibility to another commuting area if they later relocate. A registrant will be referred to vacancies that are at or below the grade level of and have no more promotion potential than the position from which the registrant was separated. Eligible registrants separated from positions above GS-15 will receive assistance at the GS-15 level and below.

(b) When an agency selects an IPAP or DEP registrant, it employs him or her by reinstatement, transfer, position change, or excepted appointment as appropriate.

§ 330.305 Termination of eligibility.

(a) Eligibility for assistance under the *IPAP* will be terminated if one of the following occurs:

(1) The registrant's 120-day period of eligibility expires and is not renewed by the agency;

(2) The registrant requests, in writing, that placement assistance be terminated;

(3) The agency notifies OPM that the employee is no longer surplus;

(4) The registrant is placed in a nontemporary position in the competitive or excepted service;

(5) The registrant is enrolled in the DEP; or

(6) The registrant declines an offer of continuing employment in the competitive or excepted service under conditions (i.e., grade, salary, geographic location, or work schedule) the registrant previously indicated were acceptable, unless OPM determines that an exception is warranted.

(b) Eligibility for assistance under the *DEP* will be terminated if one of the following occurs:

(1) A tenure group I registrant's 2-year period of eligibility expires (except for preference eligibles covered under § 330.407 of this part who are eligible for up to 1 year of additional assistance as specified in that section);

(2) A tenure group II registrant's 1-year period of eligibility expires (except for preference eligibles covered under § 330.407 of this part who are eligible for up to 1 year of additional assistance as specified in that section);

(3) The registrant requests, in writing, that placement assistance be terminated;

(4) The registrant is placed in a nontemporary position in either the competitive or excepted service; or

(5) The registrant declines an offer of continuing employment in the competitive or excepted service under conditions (i.e., grade, salary, geographic location, or work schedule) the registrant previously indicated were acceptable, unless OPM determines that an exception is warranted.

§ 330.306 Agency responsibilities.

(a) *Registration of eligible employees.* Agencies are encouraged to participate in the IPAP and inform their employees about this program as soon as they are reasonably sure that separations will be necessary. In accordance with § 351.804 of this chapter, agencies must inform affected employees about the Displaced Employee Program at the same time that specific notices are distributed. Agencies are responsible for assisting employees with their registration forms, for completing the information requested on the registration forms, and for sending the forms to appropriate offices as instructed by OPM.

(b) *Consideration of individuals referred.* Agencies will give full consideration to individuals referred through OPM's placement programs. Full consideration is a careful and open review of the qualifications of the registrant as described in the individual's application forms followed by an interview, if possible, to further assess the registrant's ability to perform the duties of the position within a reasonable period of time. An appointing officer may not pass over a DEP eligible to select a non-DEP eligible unless an objection to the DEP eligible is sustained by OPM or an agency with delegated examining authority. This objection procedure does not apply to IPAP registrants.

(c) *Agency programs.* (1) Each agency has a primary obligation to assist, to the maximum extent practical and in keeping with the requirements set forth in paragraph (c)(2) of this section, in the placement of its surplus and displaced employees. OPM's placement programs only supplement these efforts and are not intended to replace an agency's program or to relieve an agency of its responsibility to provide the maximum placement assistance possible.

(2) Each agency is required to operate a positive placement program for its own surplus and displaced employees. The program must, at a minimum, provided for the establishment and maintenance of a reemployment priority list for the commuting area, as provided for in Subpart B of this Part and Subpart J of Part 351 of this chapter. Additionally, each agency is expected to supplement this basis requirement with other forms of appropriate assistance. An agency's positive placement program should include, at a minimum, the following elements:

(i) Criteria of eligibility for assistance;

(ii) The duration of eligibility;

(iii) The types of assistance provided, including counseling, job referral, and training;

(iv) Consideration of the appropriateness of imposing hiring restrictions on filling vacancies, such as blocking transfers, reinstatements, and outside hires, as long as qualified surplus or displaced employees are available in the agency's positive placement program.

§ 330.404 [Amended]

3. In § 330.404, (c), the words "as specified in OPM issuances" are deleted and the word "are" is substituted for "is".

4. In § 330.701, paragraph (b) is revised to read as follows:

§ 330.701 Coverage

* * * * *

(b) Has been retired under section 8337 or 8451 of title 5, United States Code.

PART 332—RECRUITMENT AND SELECTION THROUGH COMPETITIVE EXAMINATION

5. The authority citation following § 332.406 is removed. The authority citation for Part 332 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

6. Section 332.314 is revised to read as follows:

§ 332.314 Displaced employees eligible for placement assistance.

Subject to the time limits and other conditions published by OPM in the Federal Personnel Manual, a person who is eligible for placement assistance through the Displaced Employee Program described in Subpart C of Part 330 of this chapter is entitled to file applications for competitive examinations after the closing date for receipt of applications when there is an existing register or a register is about to be established. Applications may be filed at any grade or level above the position from which the person is about to be or was displaced, for which such person is qualified.

[FR Doc. 87–29685 Filed 12–24–87; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Proposed Amendment to Rules and Regulations to Authorize Collection of Planting Data

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require handlers to provide information to the South Texas Onion Committee on onion plantings periodically during the planting season. Planting times for onions are staggered so that the entire crop will not mature at the same time. By knowing when the onions were planted and the number of acres planted, the industry will be better able to judge the volume of available supplies during the shipping period and plan the activities of the marketing development program to coincide with the heaviest volume.

DATES: Comments must be received by January 27, 1988.

ADDRESSES: Comments should be sent to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. Comments should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456; telephone 202–447–2431.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 959 [7 CFR Part 959], regulating the handling of onions grown in South Texas. This order is authorized by the Agricultural Marketing Agreement Act of 19937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. 3507], the information collection requirements included in this rule will be submitted for approval to the Office of Management and Budget (OMB).

This proposed rule has been reviewed under Executive Order 12291 and Department Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of onions subject to regulation under the South Texas Onion Marketing Order and approximately 160 onion producers in the production area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of South Texas onions may be classified as small entities.

This proposed rule would require handlers to report to the committee the acreage and planting dates of all onions that they anticipate handling during the shipping season. Growers typically contract with handlers prior to the beginning of the season to arrange for sorting, grading, packing and, in some case harvesting. During this period, handlers and the growers they service usually decide jointly on planting schedules so that acreage that matures during a specific interval does not exceed the capacity of the handler's facilities. Hence, handlers are well aware of the size and timing of plantings since they were actually engaged in the planting phase.

For the past five seasons the South Texas Onion Committee has undertaken a market development program aimed at finding ways to increase the movement of production area onions. The program has expanded each year, its budget increasing from $25,000 the first season to $141,351 for the upcoming season. The program has centered around promoting South Texas onions within the trade, with emphasis on receivers, retailers, and food page editors.

Experience during the past five seasons has indicated a need for information concerning the anticipated volume of marketings on a weekly or bi-weekly basis during the shipping season. With this information available, plans can be developed before the season begins to allocate program resources to produce the best results. The committee feels the best method for obtaining the necessary information is to require handlers to report actual plantings to the committee every two weeks during the planting season. Additionally, the information developed from these reports will be made available to the industry, on a composite basis to avoid divulging individual handlers' operations. This should further aid growers and handlers in making marketing decisions during the season. Inasmuch as the information desired by the committee is already available, having been developed by the handlers themselves, the additional reporting burden will be minimal.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is allowed to receive written comments either supporting or opposing this proposal. All written comments timely received in response to this request for comments will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 959

Marketing agreements and orders, onions, Texas.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 959 be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR Part 959 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Part 959, Subpart—Rules and Regulations is hereby amended by adding a new § 959.115 as follows:

§ 959.115 Planting reports.

Each handler shall furnish every two weeks during the planting season to the committee, on a form provided by the committee, the number of acres of onions planted by the handler or growers for whom the handler packs onions during such period and the location of such plantings.

Dated: December 21, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–29590 Filed 12–24–87; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 979

Melons Grown in South Texas; Proposed Amendment No. 7 to Continuing Handling Regulation to Remove Exemption for Black Surface Discoloration

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would eliminate the exemption for black surface discoloration from the grade requirements for melons produced in South Texas. The South Texas Melon Committee believes that this action will improve the quality of Texas melons and make them competitive with melons from other producing areas. The proposal is intended to provide a more appealing melon for consumers and thus improve returns to growers.

DATES: Comments must be received by January 27, 1988.

ADDRESSES: Comments should be sent to: Docket Clerk, Fruit and Vegetable

Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. Comments should reference the date and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone 202–447–2431.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 979 (7 CFR Part 979), regulating the handling of melons grown in South Texas. This order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 35 handlers of melons subject to regulation under the South Texas Melon Marketing Order and approximately 72 melon producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of South Texas melons may be classified as small entities.

This proposed rule would eliminate the exemption for black surface discoloration allowed under the current regulation. Grade requirements specify that cantaloups must meet U.S. Commercial grade and that at least half of the honeydew melons in any lot must meet U.S. Commercial grade and, in addition, contain at least eight percent sugar. Currently, black surface discoloration is not scored as a grade defect, although it is listed under U.S. Commercial grade in the U.S. Standards for cantaloups and honeydew melons.

At the inception of the order in 1979, it was the committee's belief that emphasis should be placed on the elimination of bulk shipments and the container regulations necessary to accomplish this. Grade requirements from the beginning have tended to be less stringent than those of other producing areas. The industry consensus at that time was that the cost of sorting, grading, and packing would tend to remove the poorer quality melons from marketing channels, and that tighter quality standards were therefore unnecessary. Because of this, the committee believed that scoring black surface discoloration, or black mold, as a grade defect would cause an unnecessary hardship among handlers and recommended an exemption for this defect.

Black surface discoloration from mold is much more prevalent on production area melons during wet growing seasons, although it can be found following a heavy rain in any season. The incidence of this defect during dry or normal years may not be high enough to attract much unfavorable attention in terminal markets, but is often present in some degree. However, during unusally wet seasons, it is not uncommon to find a significant number of melons in each lot affected with black mold to a greater or lesser extent.

The spring marketing season for South Texas melons is short, usually lasting only from May through June. During the latter part of the season, shipments from South Texas compete in the marketplace with melons produced in California and Arizona, both of which have gained reputations for shipping very high quality melons. Faced with increasing competition of high quality supplies from other producing areas, the committee has decided that upgrading the quality of South Texas melons is the most practical method of meeting the competition. Since black surface mold is unsightly and significantly reduces the sales appeal of the melon, removing the exemption for it and requiring it to be scored as a defect should noticeably improve the quality of melons shipped from the area. While this proposal would remove the exemption for black surface discoloration, a tolerance would be provided for this type of damage. For cantaloups, there currently is a 12 percent tolerance for condition defects, including an eight percent tolerance for serious damage. In the case of honeydew mellons, the total tolerance for damage is 50 percent, which includes a 20 percent tolerance for serious damage. Given the provision of these tolerances and the fact that certain procedures can be followed by handlers in preparing the melons for market to reduce the presence of black surface mold, it is not believed that this action would substantially affect the volume of Texas melons that could be shipped to the fresh market. In addition, any costs involved in complying with the proposed action would be offset by the improved returns expected to be received for the higher quality melons.

Exceptions are provided to certain of these handling requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Up to 120 pounds of melons may be handled each day except for resale, without regard to the requirements of this regulation. Also, shipments of melons for charity or relief are exempt, since no useful purpose would be served by regulating such shipments. Melons for canning or freezing are exempt from regulation.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is allowed to receive written comments either supporting or opposing this proposal. All written comments timely received in response to this request for comments will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 979

Marketing agreements and orders, Melons, Texas.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 979 be amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR Part 979 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 979.304 [Amended]

2. Section 979.304 (47 FR 13119, March 29, 1982; 47 FR 24110, June 3, 1982; 48 FR 21881, May 16, 1983; 49 FR 15542, April 19, 1984; 50 FR 10207, March 14, 1985; 51 FR 16004, April 30, 1986; 52 FR 17390, May 8, 1987) is hereby amended

by removing paragraph (a)(3) and redesignating paragraph (a)(4) as (a)(3).

Dated: December 21, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-29591 Filed 12-24-87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-141-AD]

Airworthiness Directives; Lockheed-Georgia Model 382 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Lockheed Model 382 series airplanes, which would require inspection of the control column base for cracks, and replacement, if necessary. This proposal is prompted by reports of operators using an elevator block that has caused cracking to occur in the First Officer's control column. This condition, if not corrected, could result in failure of the control column and lost of control of the airplane.

DATE: Comments must be received no later than February 24, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-141-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Applicable service information may be obtained from Lockheed-Georgia Company, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Bentley, Aerospace Engineer, Airframe Branch (ACE-120A), FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349; telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-141-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The FAA has received reports of cracks found in the control column base on Lockheed Model 382 series airplanes, which have been caused by the use of elevator control blocks to prevent damage to the elevator during loading and unloading operations. Typically, control blocks are used on many models of aircraft to prevent damage caused by the inadvertent slamming of controls against the control stops during flight in gusty or high wind conditions. However, Lockheed Model 382 airplanes have built-in control system snubbers to prevent this condition, and the use of elevator control blocks is not authorized for these airplanes. Due to the inherent design of the Model 382 control system, the use of additional elevator control blocks can induce excessive loads in certain control system elements and lead to cracks, such as the ones which have been reported. Such cracks, if not detected and repaired, could lead to the failure of the control column and loss of control of the airplane.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection of the control column bases on the forward side of the control column, in accordance with procedures that have been developed for non-destructive inspection (using eddy current and fluorescent penetrant methods), and replacement, if necessary.

It is estimated that 22 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,800.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($400). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 3913 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed-Georgia: Applies to Model 382 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the control column and loss of control of the airplane, accomplish the following:

A. Within the next 250 hours time-in-service after the effective date of this AD, perform an eddy current (non-destructive) inspection of the left and right control column bases on the forward side of each control

column at approximately floor level, as follows:

Note

The control column base is shown in the Lockheed Hercules Component Overhaul Manual, SMP 850, Item 27–26, Figure 1, page 4, as Figure Item No. 235 (see Figure 1, below). The inspection area is around the 1.25-inch diameter hole located on the forward side of the base approximately at the lower end of the control column tube support (Figure Item No. 185).

The control column bases are fabricated from either magnesium or aluminum. Earlier airplanes were delivered with AZ918–T6 magnesium alloy sand casting per MIL–M–4204. The magnesium castings are finished with an anodic treatment, a wash primer per MIL–C–8514, and two coats of epoxy primer per LAC 37–722, Type I, followed by an epoxy enamel per LAC 37–722 of appropriate color. The aluminum bases are A356–T6 aluminum castings per MIL–Ap–21180, Class 10, with an initial sulfuric acid anodize, and finished with two coats of zinc chromate primer, followed by two coats of Camouflage lacquer per TT–L–190.

Fatigue cracking may initiate at the sharp edge formed by thickness transition approximately mid-way up from the bottom of the 1.25-inch diameter hole on the forward side of the base. Cracks will propagate aft around the perimeter of the base along the thickness transition.

1. Prior to performing the eddy current inspection, assemble the following equipment:

a. Crack Detector, Magnaflux P/N ED–520, or equivalent.

b. Probe, surface, shielded, ⅛-inch diameter, 8 inches long, VM products P/N VM200–8, or equivalent.

c. Probe, surface, shielded, right angle, ⅛-inch diameter, ½-inch drop, 8 inches long, VM Products P/N VH202BA–1/2–8 or equivalent.

d. Cable, 6 foot, Microdot/BAC, Mastercraft Enterprises P/N NMT 7–41–BM, or equivalent.

e. Standard, aluminum, as furnished with the Magnaflux instrument, or Lockheed-Georgia Company P/N PDL 457A.

2. Prior to performing the eddy current inspection, prepare the airplane in the following manner:

Warning

Ensure that power is isolated from all systems in the inspection area prior to approaching the inspection area. Failure to comply may result in serious injury to personnel.

a. Isolate power from all systems in the inspection area in accordance with applicable maintenance manuals.

b. Remove screws retaining Dust Seal Boot (Figure Item No. 20, Item 27–26 of SMP 850) to the cockpit floor. Loosen clamp retaining the Dust Seal Boot to the Support Tube, and push the Dust Seal Boot up approximately 6–8 inches and secure to Support Tube temporarily. Repeat for opposite control column installation.

3. Gain access for the inspection inside of the airplane in the cockpit, using normal ingress provisions.

4. Prepare the area to be inspected as follows:

a. Remove oil, grease, residual, sealant, and other materials by wiping the control column base around the 1.25-inch diameter hole on the forward side of the base with Federal Specification O–T–620, Type I, Trichloroethane, or commercial equivalent, and dry with clean cotton cloth.

Warning

Federal Specification O–T–620, Type I, Trichloroethane is toxic to skin, eyes, and respiratory tract. Skin and eye protection is required. Avoid repeated or prolonged contact. Good general ventilation is normally adequate. Failure to comply could result in injury to personnel.

b. Visually inspect area to be inspected, looking for rough surface conditions which could adversely affect the eddy current inspection. If surface appears rough, smooth surface using 320 grit sandpaper until a reliable eddy current inspection can be achieved.

5. Set up and calibrate the eddy current instrument as specified in Lockheed Service Manual SMP–515–A or SMP–515–C, Work Card SP–76, Appendix A, for surface scanning on aluminum. The eddy current instrument must be recalibrated when probes are changed. Calibrate on aluminum for inspection of the magnesium casting.

6. Perform the eddy current inspection in the following manner:

a. With the control column in the full aft position, surface scan around the entire circumference of the 1.25-inch diameter hole at the front of the control column base casting, using both eddy current probes. Scan in both clockwise and counterclockwise directions.

b. Repeat this inspection on the opposite control column base.

7. If any suspected defects in the control column base casting are found during the eddy current inspection, indicated by a sharp meter deflection noted during calibration, mark the suspected defect.

a. To confirm suspected defects, proceed to paragraph B., below.

b. If no defects are suspected, proceed to paragraph C., below (System Securing).

B. To confirm suspected defects, perform a fluorescent penetrant inspection as follows:

1. Prior to performing the fluorescent penetrant inspection, assemble the following equipment:

Note

All chemicals shall use the "family concept"—they shall all be from the same manufacturer for Type I, Group VI, Method C, per MIL–I–25135.

a. Penetrant, fluorescent, Magnaflux P/N ZL–22A, or equivalent.

b. Remover, penetrant, Magnaflux P/N SKC/NF/ZC–7B, or equivalent.

c. Developer, penetrant, Magnaflux P/N ZP–9b, or equivalent.

d. Black light, portable, Magnaflux P/N ZB–26, or equivalent.

2. Prior to performing the fluorescent penetrant inspection, prepare the airplane by removing the control column assembly from the airplane in accordance with the applicable maintenance document.

3. Gain access for the inspection inside of the airplane in the cockpit, using normal ingress provisions.

4. Prepare the area to be inspected, in accordance with Lockheed Service Manual SMP 515–A or SMP 515–C, Work Card SP–76, Appendix A, for stripping finish around the 1.25-inch diameter hole in the suspect area.

Warning

Paint strippers are dangerous chemicals to humans and aircraft. Every effort must be made to prevent inadvertent contact with any portion of the person or aircraft. Should accidental contact be made, immediately flood the contacted area with water, and, in the case of personal contact, seek immediate medical attention.

5. Perform the fluorescent penetrant inspection in the following manner:

Note

If the tempeature of the part or inspection materials to be used is below 60 °F (16 °C), preheat and maintain the temperature at or above 60 °F (16 °C) during application of penetrant materials. The surface may be heated with a hot air heater.

a. Pre-clean the area to be inspected with the solvent cleaner (Remover, SKC/NF/ZC–7B) and wipe with a clean, dry, lint free cotton cloth.

b. Apply warm air to the inspection area to remove all moisture.

c. Apply penetrant to the control column base with penetrant sprayed onto a cotton swab and brushed onto the part. Do not spray the part from the penetrant spray can. Allow a minimum dwell time of 10 minutes before proceeding to the next step.

d. Wipe inspection area with a clean, dry, lint free cotton cloth. Wipe remaining penetrant from part with a clean, lint free cotton cloth dampened with the penetrant remover. Check the area to be inspected with the black light to ensure that excess penetrant has been removed prior to applying the developer.

e. Spray a light film of developer over the area to be inspected. Allow a minimum dwell time of 5 minutes.

f. Using the black light, inspect the suspect area for defects.

6. If defects are confirmed, prior to further flight replace the control column base with a serviceable unit free of cracks. After replacement of the control column base, or if no defects are found, proceed to paragraph C., below (System Securing).

C. System Securing: Restore finishes and sealants, reinstall removed components, remove equipment and supplies from the inspection area; rig control system in accordance with applicable maintenance manual; and perform operation checkouts as required in accordance with applicable maintenance instructions.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Lockheed-Georgia Company, 86 South Cobb Drive, Marietta, Georgia 30063. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

Issued in Seattle, Washington, on December 17, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

BILLING CODE 4910-13-M

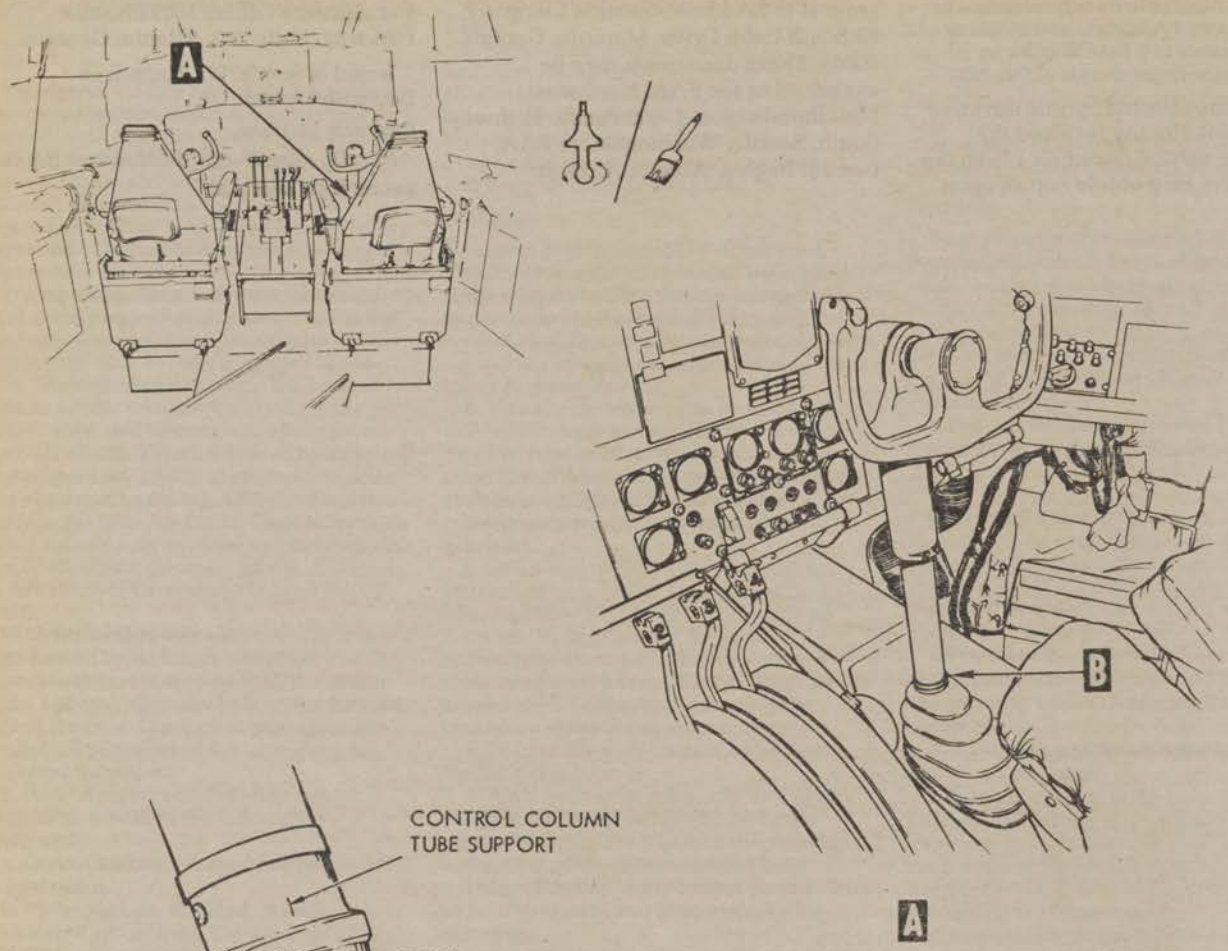

Figure 1. Flight Station Control Column Base , Left and Right.

[FR Doc. 87-29652 Filed 12-24-87; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 6 and 113

Amendments Concerning Access to Customs Security Areas at Airports

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide that employer of persons requiring access to Customs security areas at airports would be required to post a bond in which they specifically agree that both they and their covered employees will comply with the regulations applicable to those areas and to pay liquidated damages for the failure to do so. The provisions are being proposed because Customs experience in the year since the airport security area program was introduced has revealed that there have been frequent violations. Employees ordered out of security areas because of lack of clearance have later returned without having obtained clearance. Further, statements made by employers concerning background checks of their employees have proven to be inaccurate. The proposed provisions would permit the approved identification card, strip or seal to be removed from employees because of bond insufficiency and would permit the district director to waive the bond surety requirement for the period of the temporary identification card. The document also clarifies that law enforcement and governmental officials that are exempt from the Customs security area identification application requirements are not required to submit an Airport Customs Security Area Bond.

DATES: Comments must be received on or before February 26, 1988.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Customs Service Headquarters, Room 2324, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments relating to the information collection aspects of the proposed rule may be addressed to Customs, as noted above, and also the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S Customs Service, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: John O'Malley, Office of Inspection Enforcement Liaison (202–566–2140). Bond Aspects: William Rosoff, Drawback and Bonds Branch (202–566–5856).

SUPPLEMENTARY INFORMATION:

Background

Interim regulations, published as T.D. 86–12 in the **Federal Register** on February 3, 1986 (51 FR 4161), provided for the establishment of an identification system for all employees whose duties required access to Customs security areas at airports handling international air commerce. Federal, and uniformed state and local law enforcement personnel were exempted. These regulations, which are set forth in § 6.12a, Customs Regulations (19 CFR 6.12a), provided for the establishment of a "Customs security area". They also required that affected employees apply for a Customs approved identification card, or a strip or seal to be affixed to existing identification cards once an authorized official of the employer attested that background checks of employment history of their employees had been conducted or that one was not required because the employee had been hired before November 1, 1984.

After analysis of public comments received in response to publication of the interim regulations, several changes were made. These included changing the employment commencement date from which a background investigation would be required of an employee to November 1, 1985, so that it would coincide with the date which the Federal Aviation Administration uses in administering related requirements. Further, the requirement for law enforcement personnel to apply for an exemption was eliminated. They need only request the issuance of an approved identification card with strip or seal affixed thereto. Some comments, including one urging severe penalties for violations of the new security requirements, were considered but not adopted. A final rule, incorporating the adopted changes, was published as T.D. 86–174 in the **Federal Register** of September 12, 1986 (51 FR 32448).

Customs experience since then has revealed that there are still frequent violations of the security area provisions. We have noted that some people ordered out of the security areas because they do not have clearance, returned later without having obtained that clearance. Further, statements made by employers regarding background checks of persons requiring access to the security areas have proven to be inaccurate. A national audit of the employee files of approximately 1000 persons subject to these provisions has revealed that the references of almost 50 percent of new employees were not verified. In some instances, the management of ground service companies and others have shown an indifference to these matters. We have concluded that there is currently no effective enforcement mechanism for the security area regulations and that an appropriate bond which provided for the assessment of liquidated damages for violations is necessary to encourage compliance. We have also found that employers are not timely advising Customs of employees who not longer require access to security areas.

To correct these problems, it is proposed to amend Parts 6 and 113, Customs Regulations (19 CFR Parts 6 and 113), regarding the airport security area program. Under the proposal, employers will be required to periodically file a summary report of these employee changes. Employers will also be required to advise their employees of the regulations relative to Customs airport security areas, to require that their employees familiarize themselves with those provisions and insure that all their employees comply therewith. The failure to comply with the regulations would be considered as a default of the conditions of the employer's bond and would make the employer liable for liquidated damages.

If the applicant's employer has on file with Customs a Customs Form 301 containing the bond conditions set forth in §§ 113.62, 113.63, or 113.64, Customs Regulations (19 CFR 113.62, 113.63, or 113.64, Customs Regulations (19 CFR 113.62, 113.64), relating to importers, brokers, custodians of bonded merchandise, or international carriers, the application for an approved identification card, strip or seal would not need to be accompanied by any new bond. If there is no such bond, the application would have to be supported by an Airport Customs Security Area Bond, as set forth in new Appendix A of Part 113, Customs Regulations (19 CFR Part 113).

The document clarifies that law enforcement and governmental officials that are exempt from the identification application requirements need not submit an Airport Customs Security Area Bond. It also corrects the form number of the fingerprint card cited in § 6.12a(c) from Standard Form 87 to form FD–258.

Comments

Before adopting this proposal, Customs will give consideration to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available

for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2324, 1301 Constitution Avenue, NW., Washington, DC 20229.

E.O. 12291 and Regulatory Flexibility Act

This document does not meet the criteria for a "major rule" within the meaning of E.O. 12291. Accordingly, Customs has not prepared a regulatory impact analysis. Since the proposal merely provides for a method of enforcing previously existing procedures, it is certified, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)*, that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

This document proposes to modify the information collection requirements of the regulations concerning access to Customs security areas at airports. Those regulations were submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1930 (44 U.S.C. 3501) and approved under control number 1515–0152. This document has been submitted to OMB for review and comment under that Act pursuant to 44 U.S.C. 3504(h). Public comments relating to the information collection aspects of the proposal should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, DC 20503. A copy of the comments to OMB should also be sent to Customs at the address set forth in the ADDRESS portion of this document.

Drafting Information

The principal author of this document was Arnold L. Sarasky, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 6

Air carriers, Aircraft, Airports, Cuba, Customs duties and inspection, Freight, Imports.

19 CFR Part 113

Air carriers, Customs duties and inspection, Exports, Freight, Imports, Surety bonds. Surety bonds.

Proposed Amendments

It is proposed to amend Parts 6 and 113, Customs Regulations (19 CFR Parts 6 and 113), as set forth below:

PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 would continue to read as follows:

AUTHORITY: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnot. 11), 1624, 1644, 49 U.S.C. App. 1474, 1509.

2. It is proposed to amend § 6.12a by redesignating paragraph (b) as (b)(1) and adding a new paragraph (b)(2), by revising paragraph (c), by adding a new paragraph (b)(2), by revising paragraph (c), by adding a sentence at the end of paragraph (d), by redesignating paragraph (j)(1)(vi) as paragraph (j)(1)(vii), by adding a new paragraph (j)(1)(vi), by revising redesignated paragraph (j)(1)(vii), and by adding a sentence at the end of the introductory text of paragraph (k), to read as follows:

§ 6.12a Access to Customs security areas.

* * * * *

(b) * * *

(2) Employers operating in Customs airport security areas shall advise all their employees of the provisions of the Customs regulations relative to those areas, require that their employees familiarize themselves with those provisions and insure that all their employees comply therewith. The failure to comply with these regulations shall be considered as a default of the conditions of the employer's bond, as hereafter specified, and shall make the employer liable for liquidated damages as specified in its bond.

(c) An application for an approved identification card, strip or seal as required by this section shall be filed by the applicant with the district director on Customs Form 3078 and shall be supported by the bond of the applicant's employer on Customs Form 301 containing the bond conditions set forth in §§ 113.62, 113.63, or 113.64 of this chapter, relating to importers, brokers, custodians of bonded merchandise, or international carriers. If the applicant's employer is not the principal on a Customs bonds on Customs Form 301 for one or more of the activities stated above, the application shall be accompanied by an Airport Customs Security Area Bond, as set forth in Appendix A of Part 113 of this chapter. The application and bond requirement applies to all employees, regardless of the length of their employment. For employees hired on or after November 1, 1985, an authorized official of the employer shall attest in writing that a background check has been conducted on the applicant, to the extent allowable by law. The background check shall include, at a minimum, references and employment history, to the extent necessary to verify representations made by the applicant relating to employment in the preceding 5 years. For any employee hired before November 1, 1985, the authorized official of the employer need only attest to the fact that the employee was hired before that date. The authorized official of the employer shall attest that to the best of his knowledge, the applicant meets the conditions necessary to perform functions associated with employment in the Customs security area. The fingerprints of the applicant may be required on fingerprint card form FD–258 at the time of the filing of the application. Proof of citizenship or authorized residency, and a photograph may also be required. In addition, the application may be investigated by Customs and a report prepared concerning the character of the applicant. Records of background investigations conducted by employers must be retained and made available upon request by the district director for a period of 1 year following cessation of employment by affected employees.

(d) * * * An Airport Customs Security Area Bond is not required.

* * * * *

(j)(1) * * *

(vi) The bond required by paragraph (c) of this section is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(vii) The employee no longer requires access to the Customs security area for an extended period of time at the airport of issuance because of a change in duties, termination of employment, or other reason. In this instance the employer shall notify the district director in writing, at the time of such change, and shall return the strip or seal to Customs. The notification shall include information regarding the disposition of the approved

identification card of the employee who no longer requires access. A summary of such information shall be filed quarterly or at such shorter interval established by the district director. If the employee returns to duties in the Customs security area at the airport for the same employer within 1 year, a Customs Form 3078, as required in paragraph (d) of this section, need not be submitted.

* * * * *

(k) * * * Surety on the bond required by paragraph (c) of this section may be waived in the discretion of the district director, but only for the period of the temporary identification card and authorized renewals of the temporary identification card.

* * * * *

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 would continue to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

2. It is proposed to amend § 113.62 by redesignating paragraph (i) as paragraph (j) and by adding a new paragraph (i) to read as follows:

§ 113.62 Basic importation and entry bond conditions.

* * * * *

(i) *Agreement to comply with Customs Regulations applicable to Customs security areas at airports.* If access to the Customs security areas at airports is desired, the principal (including its employees, agents, and contractors) agrees to comply with Customs Regulations in this chapter applicable to Customs security areas at airports. If the principal defaults, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages of $1000 for each default or such other amount as may be authorized by law or regulation.

* * * * *

3. It is proposed to amend the first sentence of § 113.63(j)(1), as redesignated, by removing "(a) or (g)" and inserting, in its place, "(a), (g) or (i)".

4. It is proposed to amend § 113.63 by redesignating paragraphs (f) and (g) as paragraphs (g) and (h), respectively, and by adding a new paragraph (f) to read as follows:

§ 113.63 Basic Custodial bond Conditions.

* * * * *

(f) *Agreement to comply with Customs regulations applicable to Customs security areas at airports.* If access to Customs security areas at airports is desired, the principal (including its employees, agents, and contractors) agrees to comply with the Customs Regulations in this chapter applicable to Customs security areas at airports. If the principal defaults, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages of $1000 for each default or such other amount as may be authorized by law or regulation.

* * * * *

5. It is proposed to amend § 113.64 by redesignating paragraph (d) as paragraph (e) and by adding a new paragraph (d) to read as follows:

§ 113.64 International carrier bond conditions.

* * * * *

(d) *Agreement to comply with Customs Regulations applicable to Customs security areas at airports.* If access to Customs security areas at airports is desired, the principal (including its employees, agents, and contractors) agrees to comply with the Customs Regulations in this chapter applicable to Customs security areas at airports. If the principal defaults, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages of $1000 for each default or such other amount as may be authorized by law or regulation.

* * * * *

6. It is proposed to further amend Part 113 by adding, as Appendix A, the bond format hereafter noted for the Airport Customs Security Area Bond prescribed in §6.12a(c) of this chapter.

Appendix A—Airport Customs Security Area Bond

Airport Customs Security Area Bond

_____ (name of principal) of _____ and _____ (name of Surety) of _____ are held and firmly bound unto the United States of America in the sum of _____ dollars (_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by the presents.

Witness our hands and seals this _____ day of _____, 19 _____.

Whereas, the principal (including the principal's employees, agents, and contractors) desires access to Customs airport security areas located at _____ Airport during the period of one year beginning on the _____ day of _____, 19 _____, and ending on the _____ day of _____, 19 _____, both dates inclusive;

Now, therefore, the condition of this obligation is such that—The principal agrees to comply with the Customs Regulations applicable to Customs security areas at airports.

If the principal and defaults on the condition of this obligation, the principal and surety, jointly and severally, agree to pay liquidated damages of $1000 for each default or such other amount as may be authorized by law or regulation.

Signed, Sealed, and Delivered in the presence of)

Name _____

Address _____

Name _____

Address _____

Principal (Seal) _____

Name _____

Address _____

Name _____

Address _____

Name _____

Address _____

Surety (Seal) _____

Name _____

Address _____

Michael H. Lane,

Acting Commissioner of Customs.

Approved: October 23, 1987.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 87-29598 Filed 12-24-87; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Surface Coal Mining and Reclamation Operations Under the Federal Lands Program; State-Federal Cooperative Agreements; ND

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: The State of North Dakota is proposing to amend the cooperative agreement between the Department of the Interior and the State of North Dakota for the regulation of surface coal mining and reclamation operations on Federal lands in North Dakota under the permanent regulatory programs. The proposed amendment would add the Archaeological Resources Protection Act of 1979 to the list of other applicable laws for permit coordination in Appendix A of the agreement. Cooperative agreements are provided for under section 523(c) of the Surface

Mining Control and Reclamation Act of 1977 (SMCRA). This notice of proposed rulemaking provides information on the proposed change to the cooperative agreement.

DATES: *Written comments:* OSMRE will accept written comments on the proposed rule until 4:00 p.m. on January 27, 1988. Comments received after the close of the comment period will not necessarily be considered.

Public hearing: If requested, a public hearing on the proposed modification will be held on January 22, 1988, beginning at 10:00 a.m. at the location shown below under **"ADDRESSES."**

ADDRESSES: *Written comments*: Mail or hand deliver to: Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601–1918.

Public hearings: The North Dakota Capitol Building, Bismarck, North Dakota 58505–0165.

Request for public hearings: Submit orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

See **"SUPPLEMENTARY INFORMATION"** for addresses where copies of the proposed North Dakota amendment to the cooperative agreement and administrative record on the North Dakota program are available. Each requester may receive, free of charge, one single copy of the proposed amendment by contacting the OSMRE Casper Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry R. Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601–1918; Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Availability of Copies

Copies of the proposed North Dakota amendment to the cooperative agreement, the North Dakota program and the administrative record on the North Dakota program are available for public review and copying at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601–1918; Telephone: (307) 276–5776.

Office of Surface Mining Reclamation and Enforcement, 1100 L Street NW., Room 5131, Washington, DC 20240; Telephone: (202) 343–5447.

North Dakota Public Service Commission, Reclamation Division, Capitol Building, Bismarck, North Dakota 58505–0165; Telephone: (701) 224–4096.

II. Public Comment Procedures

Written Comments

Written comments should be specific, pertain only to that issue proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than Casper, Wyoming, will not necessarily be considered and included in the Administrative Record for this final rulemaking. Where practicable, commenters should submit three copies of their comments (See **"ADDRESSES"**).

Public Hearings

Persons wishing to comment at a public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business January 12, 1988. If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Individuals wishing to attend, but not testify at the hearing should contact the person identified under **"FOR FURTHER INFORMATION CONTACT"** beforehand to verify that the hearing will be held.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will also allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE office listed in "Addresses" by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meeting will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

III. Background

On November 14, 1980, the State of North Dakota requested a cooperative agreement between the Department of the Interior and the State of North Dakota to give the State primacy in the administration of its approved regulatory program of Federal lands in North Dakota. The Secretary approved the cooperative agreement on September 15, 1983 (48 FR 41387). The text of the existing cooperative agreement can be found at 30 CFR 934.30.

On February 10, 1987, OSMRE promulgated revised regulations concerning the consideration which must be accorded historic properties during the permitting of surface coal mining operations (52 FR 4244–4263). Specific to this proposed amendment, OSMRE has revised 30 CFR 773.12 to require that where Federal and Indian lands are involved, each regulatory program shall provide for the coordination of review and issuance of permits for surface coal mining and reclamation operation with applicable requirements of the Archaeological Resources Protection Act of 1979.

On June 9, 1987, OSMRE notified North Dakota of the change to 30 CFR 773.12 and the need for a corresponding amendment pursuant to 30 CFR 732.17(d). The State responded on July 28, 1987, and indicated its intent to modify the existing cooperative agreement to satisfy OSMRE's requirement to amend the State program.

IV. Proposed Amendment

On September 16, 1987, the State of North Dakota submitted to OSMRE a proposed amendment to its approved cooperative agreement under the permanent regulatory program. The proposed amendment consists of the addition of the Archaeological Resources Protection Act of 1979 to the list of other applicable laws for permit coordination in Appendix A of the agreement. There are no other changes proposed to the document.

V. Procedural Matters

Executive Order No. 12291 and the Regulatory Flexibility Act

On October 21, 1982, the Department of the Interior received from the Office of Management and Budget an exemption for State-Federal cooperative agreements from the requirements of sections 3 and 7 of Executive Order 12291.

The Department has reviewed this proposed agreement in light of the Regulatory Flexibility Act (Pub. L. 96–354). Having conducted this review, the Department has determined that this document will not have a signficant economic effect on a substantial number of small entities because no significant departure from either the State or Federal requirements already in effect will occur and no new or additional information will be required by the proposed agreement.

Paperwork Reduction Act

This proposed amendment to the North Dakota Cooperative Agreement does not contain information collection requirements which require clearance from the Office of Management and Budget under 44 U.S.C 3507.

National Environmental Policy Act

Proceedings relating to adoption or amendment of a State-Federal cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are exempt under section 702(d) of the Act from the requirements to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Author

The author of this regulation is Mr. Jerry R. Ennis, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601–1918, Telephone: (307) 261–5776.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, it is proposed to amend 30 CFR Part 934 as set forth below:

Dated: December 17, 1987.

James E. Cason,

Deputy Assistant Secretary—Land and Minerals Management.

PART 934—[AMENDED]

1. The Authority citation for Part 934 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; 16 U.S.C. 470 *et seq.*, and Pub. L. 100–34.

2. In § 934.30, State-Federal Cooperative Agreement, Appendix A is amended by redesignating items 14 and 15 as items 15 and 16, respectively, and adding new item 14 to read as follows:

§ 934.30 State-Federal cooperative agreement.

* * * * *

Appendix A

* * * * *

14. The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa., *et seq.*

* * * * *

[FR Doc. 87–29645 Filed 12–24–87; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3306–5]

Approval and Promulgation of Implementation Plans; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: By this Notice, EPA invites public comment on its proposed approval of revisions to the State of Alaska Department of Environmental Conservation (ADEC) rules regulating the height of stacks and the use of dispersion techniques, submitted on June 26, 1987, as a revision to the Alaska State implementation plan (SIP). These revisions were submitted to satisfy the requirements of section 123 (Stack Heights) of the Clean Air Act (hereinafter referred to as the Act).

DATE: Comments must be postmarked on or before January 27, 1988.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue AT–092, Seattle, Washington, 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A–87–12), Environmental Protection Agency, 1200 Sixth Avenue AT–092, Seattle, Washington 98101

State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, AK 99811.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue AT–092, Seattle, Washington 98101, Telephone: (206) 442–4253, FTS: 399–4253.

SUPPLEMENTARY INFORMATION:

I. Discussion

On July 5, 1983 (48 FR 30623), EPA approved Alaska Department of Environmental Conservation (ADEC) rules which restrict the use of stack heights and dispersion techniques in accordance with section 123 of the Act. EPA determined that these rules satisfied the requirements of its stack height regulations as promulgated on February 8, 1982 (47 FR 5864). On July 8, 1985 (50 FR 27892) EPA promulgated revisions to its 1982 stack heights regulations.

In response to the revised regulations, on June 26, 1987, ADEC submitted revised rules regulating the use of stack heighs and dispersion techniques as a revision to the State of Alaska implementation plan (SIP). The specific rule revisions are:

1. A revision to 18 AAC 50.400 Application Review and Issuance of Permit to Operate, Section (a), to add a provision regarding public review and comment on the use of field studies or fluid modeling in stack height determinations;

2. A revision to 18 AAC 50.530 Circumvention, Section (c), to delete old provisions regarding plume impaction on elevated terrain;

3. Revisions to the definitions of several terms in 18 AAC 50.900 Definitions, specifically, "dispersion technique" (18 AAC 50.900(16)), "excessive concentration" (18 AAC 50.900(20)), "good engineering practice" (18 AAC 50.900(23)), and "nearby" (18 AAC 50.900(29)) in order to make them consistent with current EPA requirements; and

4. The deletion of the definition of the term "elevated terrain" in 18 AAC 50.900(17) since it was no longer used in the ADEC regulations.

These rules apply to all new sources and modifications in Alaska as required in 40 CFR 51.164, as well as as to existing sources as required in 40 CFR 51.118. These rules apply to all sources that were or are constructed, reconstructed,

or modified subsequent to December 31, 1970. EPA has reviewed the revisions to these rules and has determined that the revised rules are consistent with the revisions to EPA's requirements for stack heights and dispersion techniques regulations as promulgated by EPA on July 8, 1985. EPA is therefore proposing to approve these ADEC rule changes as a revision to the Alaska SIP.

II. Summary of Action

EPA is today soliciting public comment on its proposed approval of certain revisions to 18 AAC 50 as a revision to the Alaska SIP to satisfy the requirements of section 123 of the Act.

Interested parties are invited to comment on all aspects of this proposed approval of revisions to 18 AAC 50. Comments should be submitted in triplicate, to the address listed in the front of this Notice. Public comments postmarked by January 27, 1988 will be considered in the final rulemaking action taken by EPA.

III. Administrative Review

Under Executive Order 12291, today's action is not "major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (46 FR 8709). The proposed disapproval involves only administrative procedures and will not have a significant economic impact on a substantial number of small entities.

Authority: 42 U.S.C. 7401–7642.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Dated: September 22, 1987.

Ronald A. Kreizenbeck,

Acting Regional Administrator.

[FR Doc. 87–29617 Filed 12–24–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 228

[FRL–3306–6]

Ocean Dumping; Proposed Designation of Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate three existing dredged material disposal sites ("the Calcasieu River and Pass sites") located in the Gulf of Mexico off the mouth of the Calcasieu River and adjacent to the Calcasieu Bar Channel for the continued disposal of dredged material removed from the Calcasieu River and Pass Project. This proposed site designation is for an indefinite period of time. This action is necessary to provide acceptable ocean dumping sites for the current and future disposal of this material.

DATE: Comments must be received on or before February 11, 1988.

ADDRESSES: Send comments to: Norm Thomas, Chief, Federal Activities Branch (6E–F), U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Information supporting this proposed designation is available for public inspection at the following locations: EPA, Region VI (E–FF), 1445 Ross Avenue, 10th Floor, Dallas, Texas 75202; Corps of Engineers, New Orleans District, Foot of Prytania Street, Room 296, New Orleans, Louisiana 70160.

FOR FURTHER INFORMATION CONTACT: Norm Thomas 214/655–2260.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Section 228.4) state that ocean dumping sites will be designated by publication in Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*). That list established seven sites for the disposal of dredged material from the Calcasieu Bar and Entrance Channel. Because some of the seven sites either shared a common boundary with another site or overlapped another site, they were subsequently combined to form three sites of similar total area. In January 1980, the interim status of the Calcasieu sites was extended indefinitely. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the EPA Region VI address given above.

B. EIS Development

Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, ("NEPA"), requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean dumping site designations such as this (39 FR 16186, May 7, 1974).

EPA has prepared a Draft and Final Environmental Impact Statement entitled "Environmental Impact Statement (EIS) for the Calcasieu River and Pass Ocean Dredged Material Site Designation." On September 7, 1984, a notice of availability of the EIS for public review and comment was published in the **Federal Register** (49 FR 35413). The public comment period on this Draft EIS closed on October 22, 1984. The Agency received nine comment letters on the Draft EIS and has responded to them in the Final EIS. Editorial or factual corrections required by the comments have been incorporated in the text and noted in the Agency's response. Comments which could not be appropriately treated as text changes have been addressed point by point in the Final EIS. On December 4, 1987, a notice of availability of the Final EIS for review and comment was published in the **Federal Register.** The public comment period on the Final EIS will close on January 4, 1988. The EIS is available for review at the address given above.

The proposed action discussed in the EIS is designation for continuing use of ocean disposal sites for dredged material. The purpose of the designation is to provide environmentally acceptable locations for ocean disposal. The appropriateness of ocean disposal is determined on a case-by-case basis. Prior to each use the Corps will comply with 40 CFR Part 227 by providing EPA a letter containing all the necessary information.

The EIS discussed the need for the action and examined ocean disposal sites and alternatives to the proposed action. Land based disposal alternatives were examined in a previously published EIS and the analysis was updated in EPA's Final EIS based on information from the Corps of Engineers. Inland disposal sites are currently used for the inland reaches of the Calcasieu River and Pass project. In 1983, approximately 590,000 cubic yards of dredged material were pumped into inland shallow water disposal areas creating 80 acres of marsh. In 1985, 650,000 cubic yards were pumped into two additional inland shallow water areas to create 125 acres of marsh. These inland sites, however, cannot accommodate the dredged material from

the bar and entrance channels. Use of these inland sites for material which has traditionally been dumped at sea would quickly decrease the lifetime of the sites. Additionally, the only available inland sites are miles upstream from the bar channel making the use of these sites economically impractical.

Three ocean disposal alternatives—a shallow water area (including the proposed sites), a mid-shelf area and a deepwater area—were evaluated. Use of the mid-shelf and deepwater sites would involve: (1) Increased transportation costs without any corresponding environmental benefits; (2) the removal of sediments from the northshore environment making them unavailable for movement and deposition by longshore currents; and (3) possible mounding of dredged material in the deeper waters due to slow erosion and transport. Because of these reasons, the mid-shelf area and the deepwater area were eliminated from further consideration.

The EIS evaluates the suitability of ocean disposal areas for final designation and is based on a disposal site environmental study. The study and final designation process are being conducted in accordance with the Act, the Ocean Dumping Regulations, and othe applicable Federal environmental legislation.

In accordance with the requirements of the Endangered Species Act, EPA has completed its biological assessment and is currently coordinating its no adverse effect determination with the National Marine Fisheries Service. EPA is also coordinating with the State of Louisiana under requirements of the Coastal Zone Management Act.

C. Proposed Site Designation

Site 1 is located on the east side of the Calcasieu River Entrance Channel while sites 2 and 3 are located on the west side of the channel. Site 1 and the upper portion of site 2 are only used during jetty maintenance. The remainder of site 2 and site 3 receive dredged material from the channel.

Site 1 is located approximately 0.5 nautical miles (nmi) from shore and extends out approximately 3 nmi. Water depths within the site range from 2 to 8 meters. The boundary coordinates are as follows:

29d 45' 39" N, 93d 19' 36" W;
29d 42' 42" N, 93d 19' 06" W;
29d 42' 36" N, 93d 19' 48" W;
29d 44' 42" N, 93d 20' 12" W;
29d 44' 42" N, 93d 20' 24" W;
29d 45' 27" N, 93d 20' 33" W.

Site 2 is located approximately 0.5 nmi from shore and extends out approximately 6 nmi. Water depths within the site range from 2 to 11 meters. The boundary coordinates are as follows:

29d 44' 31" N, 93d 20' 43" W;
29d 39' 45" N, 93d 19' 56" W;
29d 39' 34" N, 93d 20' 46" W;
29d 44' 25" N, 93d 21' 33" W.

Site 3 is located approximately 8 nmi from shore and extends out approximately 17.5 nmi. Water depths within the site range from 11 to 14 meters. The boundary coordinates are as follows:

29d 37' 50" N, 93d 19' 37" W;
29d 37' 25" N, 93d 19' 33" W;
29d 33' 55" N, 93d 16' 23" W;
29d 33' 49" N, 93d 16' 25" W;
29d 30' 59" N, 93d 13' 51" W;
29d 29' 10" N, 93d 13' 49" W;
29d 29' 05" N, 93d 14' 23" W;
29d 30' 49" N, 93d 14' 25" W;
29d 37' 26" N, 93d 20' 24" W;
29d 37' 44" N, 93d 20' 27" W.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site may be terminated or limitations placed on the use of the site to reduce the impacts to acceptable levels. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations; § 228.6 lists eleven specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

EPA has determined, based on information presented in the Final EIS, that the three existing sites are acceptable under the five general criteria. The Continental Shelf location is not feasible and no environmental benefit would be obtained by selecting such a site. Historical use of the existing three sites has not resulted in substantial adverse effects to living resources of the ocean or to other uses of the marine environment.

The characteristics of the proposed sites are reviewed below in terms of the eleven factors.

1. *Geographical position, depth of water, bottom topography and distance from coast. [40 CFR 228.6(a)(1).]*

Geographical positions, average water depths, and distance from the coast for each existing site are given above. Bottom topography within each existing site is essentially flat with little relief. Each site varies in size, in distance from shore and depth.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases. [40 CFR 228.6(a)(2).]*

The northwestern Gulf of Mexico is a breeding, spawning, nursery and feeding area of shrimp, menhaden and other bottomfish. Seasonal migration between the estuaries and the Gulf is most intensive in the spring and fall. The Calcasieu disposal sites represent a small area of the total range of the fisheries resource.

3. *Location in relation to beaches and other amenity areas. [40 CFR 228.6(a)(3).]*

Beaches are located between Calcasieu Pass and Holly Beach (4.5 nmi west). Activities in the vicinity of the sites include fishing and boating. There will be some interferences with recreational activities during and in the immediate vicinity of the dredged material disposal operation. This interference will be restricted to the area of the sites being utilized for disposal. Previous dredging and disposal operations have not significantly affected these activities.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the wastes, if any. [40 CFR 228.6(a)(4).]*

Dredged material released at approved dredged material disposal sites must conform to the EPA criteria in the Ocean Dumping regulations (40 CFR Part 227). The dredged material to be disposed of consists of varying amounts of sand, silt and clay. Surficial sediments within the existing disposal sites consist of silt and clay sands and silty clays. Higher percentages of fines are present in the nearshore areas off Calcasieu; whereas sediments in areas further offshore (depths greater than 10m) consist primarily of sand.

The annual volume of material dredged from the Calcasieu Channel averages about 14 million cubic yards. Material discharged at sites 1, 2, and 3 is accomplished by agitation dredging, bottom dumping and side casting.

Agitation dredging involves filling a hopper dredge to capacity and allowing it to overflow. With bottom dumping sediments transported to the site are discharged through subsurface doors in the bottom of the hopper dredge. Side casting is accomplished by pumping dredged material through a boom-supported pipeline extending laterally from the dredge.

5. *Feasibility of surveillance and monitoring. [40 CFR 228.6(a)(5).]*

Surveillance and monitoring at the existing sites appears feasible considering transportation costs to and from the sites as well as costs associated with acquiring samples from the shallow water-depths. Operational observations of site 1 and portions of site 2 can be made using shore-based radar while surveillance of site 3 can be accomplished by aircraft, ship riders and day use boats.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any. [40 CFR 228.6(a)(6).]*

Current patterns in the vicinity of the existing sites are predominately influenced by winds, particularly in late autumn through early spring. The water column is generally well mixed in the winter with stratification occurring in late spring and summer.

Surface current speeds average 0.8 to 1.0 knots and flow primarily to the west. Bottom currents are generally less than 0.8 knots and also flow predominantly to the west.

The agitation method utilized involves the release of fine sediments into surface waters which are swept away by riverine and littoral currents. The sediments settle out slowly as they are carried off. The distance over which the sediments are transported depends upon the existing current velocity at the time of dredging and the settling rate of sediments. Although no studies have been conducted to determine the extent to which the material is transported, it is felt that most material settles within site 2.

In the absence of strong currents, the bulk of the dredged material released by bottom dumping or side casting settles to the bottom almost immediately after dumping and only a small portion is lost from the main surge. This small portion dispenses as individual particles. Bottom currents resuspend the disposed dredged material. This resuspension will result in the disappearance of the mound through dispersal and horizontal transport.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects). [40 CFR 228.6(a)(7).]*

Over 30 years of dredged material disposal at the sites have caused no major adverse impacts. No major changes in the benthic community of the existing sites and areas outside the sites have occurred based on 1980 and 1981 field surveys. The accumulation of contaminants in the sediments of the Calcasieu sites were also investigated during the surveys. Trace metal concentrations in the Calcasieu sediments were generally comparable to values reported for sediments in an area located five miles to the west. Relatively low levels of chlorinated hydrocarbons were observed in surficial sediments during the surveys.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean. [40 CFR 228.6(a)(8).]*

All the sites extend into the navigational safety fairway; however, any temporary interferences with shipping can be mitigated through close coordination between the dredging operators and the shipping interests.

Recreational and commercial fishing and recreational boating occurs throughout the year in the area of the existing sites. Although there will be some interference with fishing and boating activities during the disposal operations, it should be of short duration.

There is active oil and gas development in the area of the existing sites. However, past use of the disposal sites has not interfered with the oil and gas exploratory or production operations. Other types of mineral extraction do not occur within the sites.

No desalination facilities occur within the sites. The nearest aquaculture activities take place in Calcasieu Lake where oyster seed beds are located. Disposal activities pose no threat to this activity. Naturally occurring fish and shellfish within the site, particularly bottom dwelling types, will be affected by the dredged material disposal. Some of these may be trapped and destroyed. Dispersion and transport of the dredged material outside the site should not significantly affect the fish and shellfish. The material dispersed from the site will settle in very thin layers and be mixed with the naturally occurring sediments of the region.

The sites do not contain or overlap any areas of special scientific interest. Periodically, scientific studies are carried out in the offshore region and the bays of the area. Use of the sites should not interfere with these studies. It is not expected that use of the sites for disposal of dredged material will interfere with any other legitimate use of the ocean.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys. [40 CFR 228.6(a)(9).]*

The water quality and ecology of the existing disposal sites are generally reflective of that of the nearshore region off the Louisiana coast affected by discharges from the Atchafalaya River. There are variations in the water quality depending on the mixture of fresh water runoff occurring at the time. Data developed during the 1980 and 1981 surveys were generally comparable to historic data for the area.

10. *Potentiality for the development of recruitment of nuisance species in the disposal site. [40 CFR 228.6(a)(10).]*

Past disposal of dredged material at the existing sites has not resulted in the development of recruitment or nuisance species. Considering the similarity of the dredged material with the existing sediments, it is not expected that continued disposal of dredged material will result in the development of such species.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance. [40 CFR 228.6(a)(11).]*

Based on coordination with the Louisiana State Historic Preservation Officer, there are no known features of historical importance that occur within the existing sites.

E. Proposed Action

Based on the information contained in the Draft and Final EIS's and available data, EPA proposes to designate the three Calcasieu sites for continuing use for the ocean disposal of dredged material. The existing sites are compatible with the general criteria and specific factors used for site evaluation.

While the Corps does not administratively issue itself a permit, the requirements that must be met before dredged material derived from Federal projects can be discharged into ocean waters are the same as where a permit would be required. EPA has the authority to approve or to disapprove or to propose conditions upon dredged material permits for ocean dumping.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this rules does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact

Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This Proposed Rule does not contain any information collection requirements subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: December 18, 1987.

Robert E. Layton, Jr.,

Regional Administrator of Region VI.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended as set forth below.

Part 228—[Amended]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. Sections 1412 and 1418.

2. Section 228.12 is amended by adding paragraphs (48), (49), and (50) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(48) Calcasieu Dredged Site 1—Region IV.

Location: 29° 45' 39" N., 93° 19' 36" W.; 29° 42' 42" N., 93° 19' 06" W.; 29° 42' 42" N., 93° 19' 48" W.; 29° 44' 42" N., 93° 20' 12" W.; 29° 44' 42" N., 93° 20' 24" W.; 29° 45' 27" N., 93° 20' 33" W.

Size: 1.76 square nautical miles.

Depth: Ranges from 2–8 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the vicinity of the Calcasieu Channel and Pass.

(49) Calcasieu Dredged Material Site 2-Region VI.

Location: 29° 44' 31" N., 93° 20' 43" W.; 29° 39' 45" N., 93° 19' 56" W.; 29° 39' 34" N., 93° 20' 46" W.; 29° 44' 25" N., 93° 21' 33" W.

Size: 3.53 square nautical miles.

Depth: Ranges from 2–11 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the vicinity of the Calcasieu Channel and Pass.

(50) Calcasieu Dredged Material Site 3-Region VI.

Location: 29° 37' 50" N., 93° 19' 37" W.; 29° 37' 25" N., 93° 19' 33" W.; 29° 33' 55" N., 93° 16' 23" W.; 29° 33' 49" N., 93° 16' 25" W.; 29° 30' 59" N., 93° 13' 51" W.; 29° 29' 10" N., 93° 13' 49" W.; 29° 29' 05" N., 93° 14' 23" W.; 29° 30' 49" N.; 93° 14' 25" W.; 29° 37' 26" N., 93° 20' 24" W.; 29° 37' 44" N., 93° 20' 27" W.

Size: 5.88 square nautical miles.

Depth: Ranges from 11–14 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the vicinity of the Calcasieu Channel and Pass.

[FR Doc. 87–29618 Filed 12–24–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 228

[FRL–3306–7]

Ocean Dumping; Proposed Designation of Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate a dredged material disposal site located in the Gulf of Mexico offshore of Port Aransas, Texas, for the disposal of dredged material removed from teh U.S. Navy Homeport project at Corpus Christi/Ingleside, Texas. The purpose of this action is to designate the most environmentally acceptable and economically feasible area for placement of construction and future maintenance material from the proposed Homeport project.

DATES: Comments must be received on or before February 11, 1988.

ADDRESSES: Send comments to: Norm Thomas, Chief, Federal Activities Branch (6E–F), U.S. EPA, 1445 Ross Avenue, Dallas, Texas 72502–2733.

A project file and additional information on this proposed site designation is available for public review at the following locations:

EPA, Region VI (E–FF),
1445 Ross Avenue, 10th Floor,
Dallas, Texas 75202–2733
Corps of Engineers, Galveston District,
444 Barracuda Avenue,
Galveston, Texas 77550.

FOR FURTHER INFORMATION CONTACT: Norm Thomas 214/655–2260.

SUPPLEMENTARY INFORMATION:

A. Background

Section 10(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in Part 228. This site designation is being published as proposed rulemaking in accordance with § 228.4(e) of the Ocean Dumping Regulations which permits the designation of an ocean dredged material disposal site (ODMDS). Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the EPA Region VI address given above.

B. EIS Development

Section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, ("NEPA") requires that Federal agencies prepare an Environmental Impact Statement (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. While NEPA does not apply to EPA's Ocean Dumping Program, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations (39 FR 16186; May 7, 1974.

EPA has prepared a Draft Environmental Impact Statement entitled "Environmental Impact Statement (EIS) Ocean Dredged Material Disposal Site Designation U.S. Navy Gulf Coast Strategic Homeporting Corpus Christi/Ingleside, Texas." On December 4, 1987, a notice of availability of the Draft EIS for agency and public review was published in the **Federal Register**. Limited copies of the Draft EIS are available from the EPA address given above. The review and comment period on this Draft EIS closes January 18, 1988.

The proposed action discussed in the EIS is the designation of an ocean site for disposal of dredged material. The purpose of the designation is to provide an environmentally acceptable location for ocean disposal. The appropriateness of ocean disposal is determined on a case-by-case basis, as part of the process of issuing permits for ocean disposal, in accordance with the Act, the Ocean Dumping Regulations, and other applicable Federal laws.

The EIS discusses the need for and alternatives to the proposed action. These include the eleven alternatives considered by the U.S. Navy in a previously published EIS (i.e., United States Navy Gulf Coast Strategic Homeporting Final Environmental Impact Statement, January 1987). Also five ocean disposal alternatives were evaluated. These included a mid-shelf site, a continental slope site and three

near-shore sites, including the Galveston District Corps of Engineers (COE) interim ODMDS. Both the mid-shelf and continental slope sites involve increased transportation costs at no environmental advantage. Because of the increased economic costs and lack of environmental benefit, the mid-shelf and continental slope sites were eliminated from consideration. In addition to ocean disposal, upland disposal, beach nourishment, as well as shallow, deep, and confined bay disposal were considered. The use of any single alternative for disposal of all material was not feasible and sufficient upland sites were not available to accommodate both: 1) the virgin and maintenance from the Homeport Project; and 2) the Corps routine maintenance material. The Navy's preferred alternative is a combination of upland disposal and ocean disposal for the 20.8 million cubic yards (mcy) of construction and future maintenance material. Of this total amount, 15.5 mcy would be disposed of inshore, and 5.3 mcy would be disposed of offshore.

EPA is coordinating with the National Marine Fisheries Service in accordance with the requirements of section 7 of the Endangered Species Act. EPA is also coordinating, as a part of the NEPA/EIS process, with the State of Texas regarding any requirements under the Coastal Zone Management Act.

C. Proposed Site Designation

The proposed site is located approximately four miles offshore of Port Aransas, Texas. Water depths within the area range from 45–55 feet. The coordinates of the site are as follows:

27°47'42" N., 97°00'12" W.; 27°47'15" N., 96°59'25" W.; 27°46'17" N., 97°01'12" W.; 27°45'49" N., 97°00'25" W.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at a site cause unacceptable adverse impacts, further use of the site may be terminated or limitations placed on the use of the site to reduce the impacts to acceptable levels. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations; section 223.6 lists eleven specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The characteristics of the proposed site are reviewed below in terms of the eleven factors.

1. *Geographical position, depth of water, bottom topography and distance from coast. [40 CFR 228.6(a)(1).]*

Geographical position, water depth, and distance from the coast for the disposal site are given above. Bottom topography is flat with no unique features or relief.

2. *Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases. [40 CFR 228.6(a)(2).]*

The Corpus Christi Ship Channel (CCSC) serves as a migratory route for white shrimp, brown shrimp, blue crab, drum, sheepshead and southern flounder. This area, including a 1.5 mile buffer zone, is excluded as a migratory passage. Also excluded are lighted platforms and non-submerged shipwrecks.

3. *Location in relation to beaches and other amenity areas. [40 CFR 228.6(a)(3).]*

The preferred site is approximately four miles offshore of Mustang and San Jose Islands. Other local amenities include Mustang Island State Park, Caldwell Pier, and the Padre Island Natural Seashore, approximately 20 miles away.

4. *Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the wastes, if any. [40 CFR 228.6(a)(4).]*

Virgin construction material and maintenance material from the Homeport Project would be disposed of at the preferred ODMDS. Roughly 2.4 mcy of construction material is proposed for disposal in the two-year or less construction interval. Approximately 2.9 mcy of maintenance material is proposed for disposal through project year 50 (estimated at 290,000 cubic yards during every five-year maintenance cycle). Based on chemical analyses and biological toxicity studies of past maintenance material and virgin material from near the Homeport Project area, there are no pollution or toxicological problems associated with these sediments.

5. *Feasibility of surveillance and monitoring. [40 CFR 228.6(a)(5).]*

The preferred site is amenable to surveillance and monitoring. The proposed monitoring and surveillance program for virgin material, consists of ship-riding surveillance for disposal site location; bathmetric surveys; grain size analysis; sediment chemical characterizing; and benthic infaunal analysis at selected stations. For future maintenance material, the proposed program consists of water, sediment and elutriate chemistry; bioassays; bioaccumulation studies; and benthic infaunal analyses.

6. *Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any. [40 CFR 228.6(a)(6).]*

Predominant longshore current, and thus predominant longshore transport, is to the southwest. Long-term mounding has not historically occurred with discharged maintenance material, although significant short-term mounding of construction material is expected. Steady longshore transport and occasional storms, including hurricanes, are expected, on a long-term basis, to remove the disposed material from the site.

7. *Existence and effects of current and previous discharges and dumping in the area (including cumulative effects). [40 CFR 228.6(a)(7).]*

The discussion of the results of chemical and bioassay testing of past maintenance material and material from and near the interim-designated ODMDS plus chemical analyses of water from the area concluded that there were no indications of water or sediment quality problems in the Zone of Siting Feasibility (ZSF). Testing of past maintenance material from the CCSC in Corpus Christi Bay and virgin sediment from the area indicates that it was, or would be, acceptable for ocean disposal under 40 CFR 227. Studies of the benthos at the interim-designated ODMDS and nearby areas, however, have indicated that the composition of the benthos at the interim-designated ODMDS is significantly different from that in nearby "natural bottom" areas, due primarily to the fact that the substrate at the ODMDS is almost pure sand versus the mixed grain size of the "natural bottom". Since the grain-size composition of the proposed material, both virgin and maintenance, indicates a high percentage of fines, the preferred site, was not selected near shore, in the sand province, but further offshore in the sand/silt/clay province.

8. *Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean. [40 CFR 228.6(a)(8).]*

Shipping, mineral extraction, commercial and recreational fishing,

recreational areas and historic sites were considered in the siting feasibility process. As a result, the preferred site will not interfere with these or other legitimate uses of the ocean.

9. *The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys. [40 CFR 228.6(a)(9).]*

Chemical studies conducted for or by the COE have shown only short-term water-column perturbations of trubidity, and perhaps Chemical Oxygen Demand (COD) resulted from disposal operations. No short-term sediment quality perturbation, except gain size, could be directly related to disposal operations. In general, the water and sediment quality is good throughout the ZSF. This indicates that there have been no long-term adverse impacts on water and sediment quality from past maintenance material disposal. However, there does appear to be a long-term adverse impact on the gain size, and thus, on the benthos at the interim-designated ODMDS. This impact could be reduced with the proposed dredged material since the grain size is small.

10. *Potentiality for the development or recruitment or nuisance species in the disposal site. [40 CFR 228.6(a)(10).]*

With a disburbance to any benethic community, initial recolonization will be by apportunistic species. The benthos at the interim-designated site is different, because of grain size influences, from the surrounding "natural bottom" areas. Nevertheless, the disposal of dredged material in the past has not, and disposal of the proposed material should not, attract or promote the development or recruitment of nuisance species.

11. *Existence at or in close proximity to the site of any significant natural or cultural features of historical importance. [40 CFR 228.6(a)(11).]*

The location and types of areas and features of historical importance were considered and these areas are excluded. The nearest site of historical importance is located near the Port Aransas, Texas jetties, which are over two miles from the preferred site boundary. Therefore, use of the preferred site would not impact any known sites of historical importance. EPA is also coordinating, as a part of the NEPA/EIS process, with the Texas Historical Commission regarding cultural/historic resources.

E. Proposed Action

Based on the Draft EIS, EPA proposes to designate the U.S. Navy's preferred alternative site for disposal or dredged material from the Homeport Project. The proposed site is compatible with the general criteria and specific factors used for site evaluation.

Before ocean dumping or dredged material at the site may occur, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. EPA has the authority to approve or to disapprove or to propose conditions upon dredged material permits for ocean dumping.

The designation of the dredged material site for the Homeport Project at Corpus Christi/Ingleside, Texas is being published as proposed rulemaking. Management of this site has been delegated to the Regional Administrator of EPA Region VI.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulations is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effect which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This propose rule does not contain any information collection requirements subject to the Office of Management and Budget review under the paperwork Reduction act of 1980, 44 U.S.C. 3510 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: December 18, 1987.

Robert E. Layton, Jr.,

Regional Administrator of Region VI.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by adding paragraph (b)(51) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(51) Homeport Project Dredged Material Site—Region VI. Location: 27°47'42" N., 97°00'12" W.; 27°47'15" N., 86°59'25" W.; 27°46'17" N., 97°01'12" W.; 27°45'49" N., 97°00'25" W.

Size: 1.4 square miles.

Depth: Ranges from 45–55 feet.

Primary Use: Dredged material.

Period of Use: 50 years

Restriction: Disposal shall be limited to dredged material from the U.S. Navy Homeport Project, Corpus Christi/Ingelside, Texas.

[FR Doc. 87-29619 Filed 12-24-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 43

[CC Docket No. 87-503; FCC 87-349]

Common Carrier Reporting Requirements; Elimination of FCC Form 901; Telephone Reports

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: On December 9, 1987 at 52 FR 46628, the Commission published a Notice of Proposed Rule Making in this proceeding regarding the elimination of FCC Form 901. Inadvertently, the comment/reply comment dates were misstated as January 4, 1988 and January 25, 1988 respectively in the middle column on page 46629. This document corrects those dates.

DATES: The correct dates for the Notice of Proposed Rule Making are January 25, 1988, and February 9, 1988, respectively.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-29473 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 22

[General Docket 87-390; FCC 87-301]

Liberalization of Technology and Auxiliary Service Offerings in the Domestic Public Cellular Radio Telecommunications Service; Extension of Time for Filing Comments and Replies

AGENCY: Federal Commnications Commission.

ACTION: Proposed Rule; extending time for comments and replies.

SUMMARY: This action extends the time for filing comments and replies in response to the Notice of Proposed Rule Making, Notice, (published October 21, 1987, 52 FR 39250), in this proceeding. The Cellular Telecommunications Division of Telcator Network of America and, International Mobile Machines Corporation have requested an extension of time in order to complete complex engineering analyses of the issues proposed in the Notice. In order to develop as complete a record as possible in this proceeding, the Commission is extending the time for filing comments and replies.

DATES: Comments are due January 15, 1988. Reply comments are due February 15, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph P. Husnay. Office of Engineering and Technology. (202) 653-8106.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rule Making was published in General Docket 87-390, FCC 87-301, adopted September 17, 1987, and released October 15, 1987.

Federal Communications Commission.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 87-29467 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-267]

Review of Technical Assignment Criteria for the AM Broadcast Service

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; extension of time.

SUMMARY: This action grants a motion for extension of time for filing comments and reply comments in response to the *Notice of Inquiry* in MM Docket No. 87-267 (Review of Technical Assignment Criteria for the AM Broadcast Service) published August 24, 1987 (52 FR 31795). The National Association of Broadcasters ("NAB") requested that the filing deadlines be extended 180 days in order to allow for the completion and analysis of two technical studies that will be useful to the Commission in resolving the issues raised in this proceeding. NAB, however, requested an expedited resolution of that portion of the *Inquiry* addressing transmission standards based on the 1987 National Radio Systems Committee proposals. Since the studies being conducted by the NAB should enhance the substantive quality of the record in this rulemaking, the Commission has extended the dates for filing comments and reply comments on sections I and IV of the *Inquiry* to June 17, 1988 and August 17, 1988 respectively. On sections II and III, the Commission extended the deadlines to February 1, 1988 for comments and March 1, 1988 for reply comments.

FOR FURTHER INFORMATION CONTACT: Wilson A. La Follette, (202) 632-5414.

SUPPLEMENTARY INFORMATION: The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Order Granting Motion for Extension of Time for Filing Comments and Reply Comments

Adopted: December 11, 1987.

Released: December 15, 1987.

By the Chief, Mass Media Bureau.

1. On August 17, 1987, the Commission released a *Notice of Inquiry* (*Inquiry*) in MM Docket 87-267 for the purpose of providing a comprehensive review of the technical principles pertaining to AM broadcast assignment criteria and related issues in order to identify needed changes that would permit AM stations to improve their service and enhance their ability to compete in the marketplace.[1] The deadlines for filing comments and reply comments in this proceeding are currently December 17, 1987 and February 17, 1988, respectively.[2]

2. On December 1, 1987, a motion for extension of these filing deadlines was filed by the National Association of Broadcasters ("NAB"). The motion requests that the deadline for comments be extended until June 17, 1988 and that the reply comment deadline be extended to August 17, 1988. In requesting a general extension of approximately 180 days, the NAB noted that the Commission may wish to extend by a lesser complement of time the comment and reply comment dates concerning less controversial or less complicated issues raised in the *Inquiry*.[3]

3. In support of its motion for extension of the filing deadlines, the NAB explains that it has undertaken two major technical studies which will provide a meaningful contribution to the record in this proceeding. The completion of these two studies will take several months and their analysis will require additional months of study in order to prepare the comments. The NAB also points to the importance of its Annual Engineering Conference in April of 1988 and the completion of additional work by NRSC in March of 1988 in the development of useful comments in this proceeding. Finally, NAB characterizes the process of improving the AM broadcasting service as "highly detailed and complex" and therefore urges the Commission to extend the deadlines so that the record will be complete and comprehensive.

4. On December 9, 1987, GSM Media Corporation ("GSM") filed comments on NAB's motion for an extension of time. GSM agrees with NAB that certain issues addressed in the *Inquiry* do not require extensive research and therefore can be resolved more quickly. GSM contends that there is a need for immediate improvement of the AM service if it is to remain competitive and therefore argues that proposals concerning interference received and

[1] FCC 87-245, adopted July 16, 1987, 2 FCC Rcd. 5014 (1987).

[2] 52 FR 31795 (August 24, 1987). The current deadlines were established by *Erratum*, released September 3, 1987, which was not published in the **Federal Register.**

[3] The NAB filed a petition with the Commission on November 6, 1987 requesting the adoption of the 1987 NRSC standard AM preemphasis curve and the standard 10 kHz audio bandwidth. On December 9, 1987, the NAB's *Petition for Rulemaking*, RM 6174, went out on public notice and comments are due January 25, 1988. In its public notice releasing the NAB's *Petiton* for comment, the Commission took note of the relationship between the issues in the petition and one of the issues raised in the *Inquiry*. The NAB urges in its instant motion for extension of time that this particular matter be expedited.

new skywave propagation curves should be reviewed and implemented as expeditiously as possible.

5. We agree with NAB's assessment of the complexities of the issues under study in the *Inquiry*. We have been working with the public and the private sector through our Advisory Committee on Radio Broadcasting and we believe that the NAB studies will add to our knowledge and inform our decisionmaking. Furthermore, we agree with both NAB and GSM that certain issues in the *Inquiry* do not require an extended comment period and can be fully addressed without the results of the types of technical studies which the NAB is undertaking. The *Inquiry* is divided into four sections: We feel that Section II—Additional Assignment Considerations and Section III—Related Technical Issues can be addressed by interested commenters within a shortened timeframe.

6. Accordingly, it is ordered that the Motion for Extension of Comment and Reply Comment Dates filed by the National Association of Broadcasters is granted. The dates for filing comments and reply comments on Sections II (Additional Assignment Criteria) and III (Related Technical Issues) of the *Inquiry* are extended to February 1, 1988 and March 1, 1988, respectively. The dates for filing comments and reply comments on all other sections of the *Inquiry* are extended as requested to June 17, 1988 and August 17, 1988, respectively.

7. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended and §§ 0.204(b), 0.283, 1.46 and 1.45 of the Commission's Rules.

Federal Communications Commission.

Alex D. Felker,

Chief, Mass Media Bureau.

[FR Doc. 87-29278 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-565, RM-5820]

Radio Broadcasting Services; Yellville, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Scott Miller, licensee of Station KCTT-FM (Channel 249A), Yellville, Arkansas, proposing the substitution of FM Channel 249C2 for Channel 249A and modification of his license accordingly, to provide that community with its first expanded coverage FM service.

DATES: Comments must be filed on or before February 11, 1988, and reply comments on or before February 26, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dennis F. Begley, Esq., Reddy, Begley & Martin, 2033 M St., NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-565, adopted December 2, 1987, and released December 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-29602 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-566, RM-5895]

Radio Broadcasting Services; Seaside, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by KMBY Radio, Inc., proposing the substitution of FM Channel 296B1 for Channel 296A at Seaside, California, and modification of the license of Station KMBY(FM) accordingly, to provide that community with its first wide coverage FM service.

DATES: Comments must be filed on or before February 11, 1988, and reply comments on or before February 26, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Michael H. Bader, Esq., John P. Crigler, Esq., Haley, Bader & Potts, 2000 M St., NW., Suite 600, Wash., DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-566, adopted November 25, 1987, and released December 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-29603 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 52, No. 248
Monday, December 28, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Office of the Director

National Volunteer Advisory Council; Committee Renewal

In accordance with provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration (GSA), I have determined that renewal of the National Volunteer Advisory Council is in the public interest in connection with the performance of the duties and mission of the ACTION Agency.

The Council will advise and make recommendations to the Director of ACTION with respect to policy matters arising in the administration of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113), and as to the effectiveness of ACTION programs. The Council will also make final recommendations for the President's Volunteer ACTION Awards.

Advisory Council membership is chosen from all areas of the country and from a broad cross section of industry, labor, local, state and Federal government and non-profit organizations. The Council will consist of 25 members, including the Chairperson. The members are selected for their expertise and serve in their individual capacities, not as representatives of their organizations. The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed with GSA and the appropriate Congressional Committees.

Further information may be obtained from: Loni Hagerup, Special Assistant to the Director, 806 Connecticut Avenue NW., Suite 500, Washington, DC 20525, (202) 634–9380.

Signed at Washington, DC this 18th day of December, 1987.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 87–29580 Filed 12–24–87; 8:45 am]

BILLING CODE 6050–28–M

COMMISSION ON CIVIL RIGHTS

Indian Civil Rights Issues; Hearing

Notice is hereby given pursuant to the provisions of the United States Commission on Civil Rights Act of 1983, Pub. L. 98–183, 97 Stat. 1304, that a public hearing before a Subcommittee of the U.S. Commission on Civil Rights will be held on January 28, 1988, beginning at 10:00 a.m. and continuing on such succeeding days as may be deemed appropriate at the discretion of the Chairman, at the U.S. Commission on Civil Rights, Room 512, 1121 Vermont Avenue NW., Washington, DC.

The purpose of the hearing is to receive evidence about enforcement of the Indian Civil Rights Act and about the Department of the Interior's responsibilities concerning enforcement of the Indian Civil Rights Act.

The Commission is an independent, bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal Government, and to study and collect information concerning legal developments, with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, handicap, or national origin, or in the administration of justice.

Dated at Washington, DC, December 22, 1987.

Clarence M. Pendleton, Jr.,

Chairman.

[FR Doc. 87–29581 Filed 12–24–87; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Export Administration.

Title: Distribution License Procedure.

Form Number: Agency—EAR 373.3; OMB—0625–0052.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 550 respondents; 73,154 reporting/recordkeeping hours.

Needs and Uses: A Distribution License is a bulk license authorizing the holder to make multiple exports of authorized commodities to foreign consignees approved in advance by Export Administration. The information gathered is used by Export Administration to evaluate whether or not the applicant is eligible for this special license.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations.

Frequency: On occasion/recordkeeping.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: John Griffen 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: December 21, 1987.

J. Randall Blumenschein,

Chief, Management Support Division, Office of Management and Organization.

[FR Doc. 87–29659 Filed 12–24–87; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[C–301–003]

Roses and Other Cut Flowers From Colombia; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On March 2, 1987, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on roses and other cut flowers from Colombia. We determine that the signatories to the suspension agreement have complied with the terms of the suspension agreement during the period July 1, 1983 through December 31, 1985.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 6280) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on roses and other cut flowers from Colombia (48 FR 2158, January 18, 1983). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to covert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of roses and other cut flowers from Colombia, currently classifiable under items 192.1810 through 192.2192 of the TSUSA. These products are currently classifiable under HS item numbers 06031060—0 and 06031090—0. The review covers the period July 1, 1983 through December 31, 1985 and 14 programs: (1) CAT/CERT; (2) air freight reductions; (3) Resolutions 59 and 22; (4) Decree 2366; (5) duty and tax exemptions under the Plan Vallejo; (6) Research and Development Fund; (7) FFA; (8) FFI; (9) FCE; (10) FONADE; (11) Resolution 42; (12) benefits to Free Industrial Zones; (13) preferential export insurance; and (14) countertrade.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. At the request of the domestic parties, we held a public hearing on April 3, 1987.

Comment 1: The domestic parties contend that the Colombian flower exporters have violated the suspension agreement. Section 704(b) of the Tariff Act requires that a suspension agreement completely eliminate the net subsidy, and section B.1.b. of the suspension agreement requires that the exporters not apply for or receive any benefits under any other program subsequently determined by the Department to constitute a bounty or grant. Despite the Department's finding in March 1985 that PROEXPO financing under Resolution 59 and Decree 2366 is countervailable, the Colombian exporters continued to receive preferential loans under both programs throughout the review period. Section B.1.d. of the suspension agreement requires the exporters to notify the Department, at least sixty days prior to taking any action, of any benefits they intend to apply for or receive from the Colombian government. The Colombian exporters did not notify the Department of their PROEXPO loans until April 1985, and they have received preferential PROEXPO financing throughout the review period. The domestic parties have argued since the inception of the suspension agreement that PROEXPO loans are countervailable. The Colombian exporters were aware that the PROEXPO program was potentially countervailable and should have renounced the program pending the completion of the Department's review.

Department's Position: We found PROEXPO financing under Resolution 59 and Decree 2366 to be countervailable in the suspension of countervailing duty investigation on certain textile mill products and apparel from Colombia (50 FR 9863, March 12, 1985). The textile suspension agreement required the signatories not to apply for or receive any such financing other than that "offered at nonpreferential terms and at or above the most recent short-term benchmark interest rate determined by the Department." On April 1, 1985, we published our preliminary affirmative countervailing duty determination on live swine and fresh, chilled and frozen pork products from Canada (50 FR 13264), in which we used an agricultural benchmark to measure the benefit from preferential financing programs. From that point on, the Colombian exporters contended that PROEXPO financing was not countervailable because alternative financing from various nontargeted agricultural funds was available at rates similar to those offered by PROEXPO. The need for renunciation or refinancing of outstanding PROEXPO loans was not known by cut flower exporters until the Department determined the appropriate interest rate benchmark. We did not make that determination until December 15, 1986, the date of publication of the final results of our last administrative review of this case.

Comment 2: The domestic parties contend that the Colombian exporters are circumventing the suspension agreement by receiving high Tax Rebate Certificate (CERT) rebates on exports to third countries. The CERT program is designed to produce equal or greater benefits than the program renounced in the suspension agreement, the Tax Reimbursement Certificate (CAT). The CERT rebates of zero for exports to the United States and 20 percent for exports to all other countries clearly indicate that the exporters are circumventing the agreement. The only distinction between the CERT and CAT programs is the dual rates applicable under the CERT program. The dual rates ensure that the Colombian exporters receive approximately the same amount in total rebates as they had received with the single, lower rate established under the CAT program. When a foreign government replaces one subsidy program with another of equal magnitude, the purpose of the suspension agreement is not served, and monitoring by the Department is futile.

Further, despite the Department's statement in the final results of its last administrative review (51 FR 44930, December 15, 1986) that the dual rates encourage exports to countries other than the United States, in fact, imports

of Colombian roses and other cut flowers to the United States have continued to rise since the inception of the suspension agreement.

Department's Position: We have found that, as required by the terms of the suspension agreement, the exporters received no CAT or CERT payments on exports to the United States during the period of review. The Banco de la Republica, Colombia's central bank, certified to the Department in February 1986 that it has been withholding CAT/CERT payments from signatories to the agreement on shipments to the United States and Puerto Rico since January 13, 1983.

As stated on many occasions, whenever possible we calculate the benefit from export subsidies based on shipments only to the United States. Where export subsidies are not shipment-specific, or cannot otherwise be segregated according to country of destination, we calculate the benefit based on shipments to all markets. See, *e.g.*, preliminary results of countervailing duty administrative review on cotton sheeting and sateen from Peru (51 FR 35540, October 6, 1986) (the CERTEX program); preliminary results of countervailing duty administrative review on ceramic tile from Mexico (52 FR 25285, July 6, 1987) (FOMEX and article 15 loans); and final affirmative countervailing duty determination on porcelain-on-steel cooking ware from Mexico (51 FR 364451; October 10, 1986) (petitioners' comment 1).

CAT/CERT payments can be segregated according to country of destination. Since Colombian exporters have received CAT/CERT payments based only on exports to countries other than the United States, we determine that the signatories have not received any benefits from this program on U.S. shipments and, therefore, have not violated the suspension agreement.

Finally, the increase or decrease in the level of imports does not determine whether a program is countervailable or whether a suspension agreement has been violated. In fact, there is no necessary connection between these events. The level of imports may be affected by many factors, and the domestic parties have not demonstrated a connection between the dual rates available under the CERT program and the increase in imports.

Comment 3: The domestic parties contend that the Colombian exporters violated the suspension agreement by benefitting from import duty exemptions under the Plan Vallejo throughout the review period.

Department's Position: We preliminarily found that imports of capital equipment under the Plan Vallejo were countervailable in the preliminary affirmative countervailing determination on miniature carnations from Colombia (51 FR 37936, October 27, 1986). However, the notice of suspension of investigation in the miniature carnations case was not published until January 1987, one month after our revised suspension agreement in the cut flowers case. Therefore, the Colombian cut flower exporters were under no obligation to renounce the Plan Vallejo for capital equipment before signing the revised suspension agreement. Cut flower exporters have agreed to renounce the Plan Vallejo for capital equipment in the revised suspension agreement.

Comment 4: The domestic parties contend that export subsidies to third countries, such as the CERT rebates, benefit the production of all flowers, including those that are exported to the United States. An early Supreme Court ruling indicates the proper approach the Department should use in treating CERT payments on exports to countries other than the United States. In *Downs v. United States* (187 US 496, 47 L.Ed. 275, 23 S.Ct. 222. 1902), the Supreme Court held that bounties or grants conferred upon exportation necessarily benefit production as well. In an analogus situation, the Department made clear in the final affirmative countervailing duty determination on certain carbon steel products from Brazil (49 FR 17996, April 26, 1984) that it would treat benefits generated by domestic sales as benefits to all production. Regarding IPI rebates for capital investment, the Department stated: "That the rebates are generated by domestic sales only does not alter the fact that they benefit all production, including exports." Similarly, that the CERT rebates in Colombia are generated by export sales to third countries does not alter the fact that they benefit the production of all flowers, including those that are exported to the United States.

Department's Position: As stated in our response to comment 2, we generally do not find export subsidies to countries other than the United States countervailable. The facts in the cases cited by the domestic parties are distinguishable from the facts presented in this case. In the *Downs* case, the Supreme Court considered whether the exemption for excise taxes for Russian sugar exporters was a bounty upon production. Although the Court acknowledged that "every bounty upon exportation must, to a certain extent, operate as a bounty upon production, * * * " it did not find the tax exemption for exporters to be a production bounty or grant. Rather, the Court held that "When a tax is imposed upon all sugar produced, but is remitted upon all sugar exported, then, by whatever process, or in whatever manner, or under whatever name, it is disguised, it is a bounty upon exportation." Contrary to the contention of the domestic parties, the *Downs* case does not show that the Supreme Court interpreted the countervailing duty law to say that all export subsidies should be considered production (or domestic) subsidies. Furthermore, the Trade Agreements Act of 1979 (amending the Tariff Act of 1930, which itself amended the Tariff Act of 1897) draws a clear statutory distinction between export and domestic subsidies. The Department does not have the authority to erase this distinction. Finally, to allocate export subsidies over total production would understate the benefit (by increasing the denominator).

The domestic parties' reliance on our treatment of the IPI "rebate" in Brazilian certain carbon steel products is misplaced. In that determination, we treated the "rebates" as infusions of equity through a government holding company. Equity benefits all production, including exporters. Although the IPI tax was collected on domestic sales, the rebates was simply a mechanism to raise equity capital for certain steel companies. The means by which funds were raised for this program were irrelevant to our determination. (*See* also, final affirmative countervailing duty determination, prestressed concrete steel wire strand from Brazil; 48 FR 4520, February 1, 1983).

In the final affirmative countervailing duty determination on porcelain-on-steel cooking ware from Mexico (51 FR 36449; October 10, 1986), we examined a domestic subsidy program more analogous to the CERT program. Through the FOMEX frontier program, the Mexican government makes below-market loans available to finance the production, inventory, purchase and sale of certain goods manufactured in Mexico and sold in a specific region of Mexico. We held that those loans were countervailing because they " * * * are specifically tied to domestic sales, and because they do not benefit production or exportation of the subject merchandise to the United States * * * " We have found that CERT rebates paid to flower exporters are directly tied to exports to third countries. Consistent with our prior practice, we determine that the rebates do not benefit the production or export

of the subject merchandise to the United States.

Comment 5: The domestic parties contend that the Department violated the suspension agreement by failing to honor its obligation, under subparagraph C, to notify officially the Colombian exporters of any additional programs found to be countervailable in this or any subsequent proceeding. Also, the Department failed to enforce Section 704(i) of the Tariff Act, which states that when a suspension agreement has been violated, the agreement must be terminated.

Department's Position: On June 5, 1986, we officialy notified the Colombian exporters of the additional programs found countervailable. Furthermore, we included the additional programs in the revised suspension agreement. Because we have not found that the signatories have violated the suspension agreement, we are under no obligation to terminate it.

Comment 6: The domestic parties contend that the Department's failure to terminate the agreement is not in the interest of the domestic industry, as required by Congress. The Senate Finance Committee Report on the Trade Agreements Act of 1979 stated:

> Suspension is an unusual action which should not become the normal means of disposing of cases. The Committee intends that suspensions are to be considered only when the action serves the interest of the public and the domestic industry affected. Furthermore, the requirement that the petitioners be consulted will not be met by pro forma communications. Complete disclosure and discussion is required.

S. Rep. No. 249, 96th Cong., 54 (1979).

The House Ways and Means Committee showed equal concern over the use of suspension agreements. In the House Ways and Means Report, the Committee stated that:

> The authority to suspend investigations is discretionary and subject to the overriding requirement that suspension is in the public interest, and that effective monitoring of the agreement is practicable.

H. Rep. No. 317, 96th Cong., 55 (1979).

The Department's indifference to its responsibilities leads the domestic parties to believe that the determination to adhere to the suspension agreement was not made in accordance with the language and purpose of the statute but in accordance with foreign policy considerations.

Department's Position: We disagree. We have regularly consulted with the domestic parties and have provided complete disclosure of all information to them throughout this proceeding. During this review, we held a disclosure conference and a public hearing—both at the domestic parties' request. Furthermore, as required by section 704(d), we have determined that both the original suspension agreement and the revised suspension agreement are in the public interest.

We do not take foreign policy considerations into account in issuing countervailing duty orders or in signing suspension agreements. Rather, we follow the requirements of our trade laws. We entered into a suspension agreement in this case because it completely eliminates the net bounty or grant. We are satisfied that the agreement is in the public interest, and we believe that it can be monitored effectively.

Comment 7: The domestic parties contend that the Department has understated the benefit from PROEXPO loans by using an agricultural benchmark. In the appendix to the notice of final affirmative countervailing duty determination and countervailing duty order on certain cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984) ("Subsidies Appendix"), the Department stated that, to determine the amount of the subsidy, the preferential interest rate must be compared to a commercial rate. Since commercial funds are available in Colombia, there is no basis for the Department not to use a commercial interest rate benchmark.

Department's Position: We disagree. See the final results of our last administrative review of this case (51 FR 44931).

Comment 8: The domestic parties argue that the Department's test for determining whether Colombian air freight rates are countervailable is wrong. That the Colombian government mandates minimum and maximum air freight rates for cut flowers is in and of itself evidence of suppression of those rates. Furthermore, the mandated range of rates set by the government for cut flowers is below the level set for other commodities, indicating that, even if rates for all products are suppressed, there is still a special benefit for cut flower exporters.

Department's Position: We disagree. We have found that the Colombian Civil Aeronatics Board (DAAC) mandates minimum and maximum air freight rates for all commodities. We have no evidence, and the domestic parties have provided no evidence, that the rates set for cut flowers are inappropriately or unreasonably lower than those set for other products. Therefore, we believe that our test is appropriate.

Comment 9: The domestic parties argue that air freight rates are lower than rates for other products because flowers from Colombia are being subsidized by the use of shipments of flowers to transport cocaine into the United States. It is the Department's responsibility to inquire directly from the Drug Enforcement Agency and the Customs Service about the frequency of the interception of cocaine in shipments of flowers imported from Colombia. The Department should then examine the effect of these illegal funds on flower exports.

Department's Position: The use of shipments of flowers to transport cocaine as described by the domestic parties involves Customs fraud and smuggling. The Department of Commerce does not have the authority to administer the Customs fraud and smuggling statutes. Furthermore, the domestic parties have not demonstrated how the alleged smuggling constitutes a subsidy to the flower growers.

Comment 10: The domestic parties contend that PROEXPO opened a special account for diversification and development of flowers specifically targeted for external markets, and the program is countervailable.

Department's Position: Resolution No. 10, which was established on July 23, 1986, established a special account for the diversification and development of the cultivation of flowers and vegetables for external markets. This program was not in effect during the period of reveiw. We will examine it in the next administrative review.

Comment 11: The domestic parties contend that the signatories to the suspension agreement did not account for at least 85 percent of total exports of roses and other cut flowers to the United States in 1984, as required by section 704(b) of the Tariff Act.

Department's Position: The domestic parties have based their argument on the summary of export 1 licenses issued to exporters during the period July 1, 1983 through December 31, 1985, as provided by the Colombian government in its questionnaire response. The list includes shipments of miniature carnations, which are not subject to this suspension agreement. During 1984, shipments of miniature carnations represented five percent of the exports listed in the summary of export licenses. The signatories to the agreement accounted for 85.4 percent of the volume of the subject merchandise imported into the United States in 1984. Therefore, the signatories have complied with section 704(b) of the Tariff Act.

Final Results of Review

After considering all of the comments received, we determine that the signatories have complied with the terms of the suspension agreement for the period July 1, 1983 through December 31, 1985. The agreement can remain in force only as long as shipments covered by it account for at least 85 percent of exports of such merchandise to the United States. Our information indicates that the signatories comprised over 85 percent of exports of the merchandise to the United States during the period of review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.10.

Gilbert B. Kaplan,

Acting Assistant Secretary, Import Administration.

Date: December 17, 1987.

[FR Doc. 87-29672 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DS-W

Department of Energy; Decision on Application for Duty-Free entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 87-194. **Applicant:** U.S. Department of Energy, Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439.

Instrument: Scanning Electron Microscope, Model JSM-8401 with Accessories.

Manufacturer: JEOL, Ltd., Japan.

Intended Use: See notice at 52 FR 27037, July 17, 1986.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered December 19, 1986.

Reasons: The foreign instrument provides for in situ microhardness measurement of ceramic and metallic samples.

The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time fhe foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-29668 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DS-M

Loma Linda University Medical Center; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 87-213.

Applicant: Loma Linda University Medical Center, 11234 Anderson Street, Loma Linda, CA 92354.

Instrument: Extra Corporeal Shock Wave Lithotripter.

Manufacturer: Dornier Medizintechnik, GmbH, West Germany.

Intended Use: See notice at 52 FR 30942, August 18, 1987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: There is no domestic manufacturer of lithotripers or of comparable devices capable of noninvasively pulverizing kidney stones. Our consultants in the National Institutes of Health have advised us with respect to this application that there are no known domestic instruments now available which are equivalent to the Dornier ESWL.

We know of no comparable instrument that is being manufactured in the United States which is of equivalent scientific value to the foreign instrument for the purposes for which the instrument is intended to be used.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-29670 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DS-M

University of California, Livermore; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 87-299. *Applicant:* University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. *Instrument:* Thermal Image Single Crystal Growth Furnace. *Manufacturer:* NEC Corporation, Japan. *Intended Use:* See notice at 52 FR 42028, November 2, 1987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a contamination free heating environment at temperatures to 2150° C.

The National Bureau of Standards has advised that (1) this capability is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-29667 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DS-M

University of Michigan; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket number: 87-272. Applicant: University of Michigan, 503 Thompson Street, Ann Arbor, MI 48109. Instruments: Rotating Anode Horizontal X-Ray Diffractometer, D/max-RBX (12kW) and Theta-Theta X-Ray Powder Diffractometer, D/max-11TBX (2.0kW). Manufacturer: Rigaku Corporation, Japan. Intended Use: See notice at 52 FR 32825, August 31, 1987.

Comments: None received. Decision: Approved for the Rotating Anode Horizontal X-Ray Diffractometer only. A separate application for the Theta-Theta X-Ray Powder Diffractometer is required pursuant to § 301.3(e) of the regulations.

In the case of the approved instrument, no instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a combination of high power (12kW) and high brilliance (focal spot size/maximum of 2.4kW/mm²). The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director Statutory Import Programs Staff.

[FR Doc. 87-29669 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DS-M

National Institutes of Health et al; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 88-042. *Applicant:* National Institutes of Health, Building 1, Room 118, Bethesda, MD 20892. *Instrument:* Nuclear Magnetic Resonance Spectrometer, Model AM-500. *Manufacturer:* Bruker Instruments, West Germany. *Intended Use:* The instrument will be used to study the internal dynamics of the component proteins of HIV (e.g., the regulatory proteins, enzymes and envelope proteins of the virus) in solution and in the solid state. The solid state studies will be conducted using a magic angle spinning probe (Doty Scientific) and high power amplifiers (ENI and Henry Radio). *Application Received by Commissioner of Customs:* November 23, 1987.

Docket Number: 88-043. *Applicant:* Pennsylvania Muscle Institute, School of Medicine, University of Pennsylvania, B42 Anatomy-Chemistry Building, 37th and Hamilton Walk, Philadelphia, PA 19104-6083. *Instrument:* High Intensity Flash Photolysis Device. *Manufacturer:* Gert Rapp, West Germany. *Intended Use:* The instrument will be used for rapid initiation of contractions in smooth and striated muscles. A high intensity flash is delivered to a small bundle of smooth muscle or single skeletal muscle fiber, in order to release biologically active agents from inert, photolabile precursors. This permits initiation of biological reactions on a very rapid time scale, not limited by the rate of diffusion of chemical substances into muscle. *Application Received by Commissioner of Customs:* November 23, 1987.

Docket Number: 88-044. *Applicant:* National Institutes of Health, Building 1, Room 118, Bethesda, MD 20892. *Instrument:* Nuclear Magnetic Resonance Spectrometer, Model AM 600. *Manufacturer:* Bruker Instruments, West Germany. *Intended Use:* The instrument will be used for the study of proteins by use of NMR methods coupled with theoretical treatments, such as restrained molecular dynamics. The project will involve isolation of the genes of the various HIV proteins and expressions of the genes in suitable medium for generating milligram quantities of protein. The proteins to be studied are tat-3, which has been isolated and expressed and the protease for which the gene has been isolated. The projects also involves the study of inhibitors binding to the HIV enzymes. *Application Received by Commissioner of Customs:* November 25, 1987.

Docket Number: 88-045 *Applicant:* University of Virginia, Department of Anatomy and Cell Biology, Box 439, Medical Center, Charlottesville, VA 22908. *Instrument:* Electron Microscope, Model JEM100CX. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used to conduct the following research:

1. Studies of the effects of vasectomy and vasovasostomy.
2. Studies of a sperm membrane immunogen.
3. Identification and localization of antigens from human seminal fluid.
4. Pathways and mechanisms of exocrine secretion.

In addition, the instrument will be used in graduate training and courses in Anatomy, Cell Biology, Reproductive Biology, and Developmental Biology. *Application Received by Commissioner of Customs:* November 25, 1987.

Docket Number: 88-046 *Applicant:* University of Iowa, Iowa City, IA 52242. *Instrument:* Stopped-Flow Module, Model SFM-3. *Manufacturer:* BioLogic, France. *Intended Use:* The instrument will be used for the study of proteins. The experiments will involve observation of the kinetics of the changes in absorbance, fluorescence and circular dichroism accompanying the folding and unfolding of the selected proteins under a wide range of experimental solution conditions. *Application Received by Commissioner of Customs:* November 30, 1987.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-29671 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Plan Amendment Advisory Group (PAAG) has scheduled a public meeting, January 4-5, 1988, at 1:30 p.m., at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, 7600 Sand Point Way, NE., Room 2079, Building 4, Seattle, WA, to review groundfish amendment proposals for both the Gulf of Alaska and Bering Sea/Aleutian Islands Groundfish Fishery Management Plans. Following the meeting the group's recommendations, and those of the groundfish plan teams, will be forwarded to the Council for their review and initial action at their January 20-22, 1988, meeting in Anchorage. Part of the PAAG review of plan amendment proposals will be on the proposal to raise the upper limit of the optimum yield (OY) for groundfish in the Bering Sea/Aleutian Islands. The participants will scope out the extent and type of analysis required to amend the OY range and consider whether an environmental assessment or a more substantial environmental impact statement will be required.

Interested persons are invited to appear at the meeting and/or to provide written comments on alternative levels to which the OY range may be increased; associated impacts that may be triggered by raising the OY range, and direct, indirect and cumulative impacts of various alternatives. Written

comments are invited January 27, 1988. Comments may be addressed to Robert W. McVey, Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, AK 99802. For more information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; Telephone: (907) 274–4563.

Date: December 21, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–29656 Filed 12–22–87; 3:48 pm]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will convene separate public meetings, January 11–14, 1988, at the Red Lion Inn-Columbia River, 1401 North Hayden Island Drive, Portland, OR, as follows:

Council—On January 13, the Council will convene at 8 a.m., with a closed session (not open to the public) to discuss litigation, personnel, and other appropriate matters. At 8:30 a.m., the Council will commence its open session to consider administrative matters and salmon management issues. After receiving comments from its advisory entities and the public, the Council will adopt a salmon management process/schedule and methodologies and models for 1988. It will review the role of its Indian Affairs Committee; consider adopting a revised framework for allocating salmon between ocean commercial and recreational fisheries north of Cape Falcon, OR, and will address other salmon matters. There will be a public comment period on January 13 at approximately 4 p.m., to hear comments on issues not on the agenda. Public comments on agenda items will be heard during the Council's discussion on each issue. On January 14 the council will reconvene at 9 a.m. to complete administrative matters and to address Pacific halibut allocation and groundfish management. The Council will take final action on a halibut catch sharing plan for 1988. On groundfish, the Council will act on foreign and joint venture fishing applications for 1988; consider adopting whiting codend restrictions to limit the magnitude of deliveries of whiting at sea; consider a delayed season opening for the non-trawl sablefish fishery, and address other groundfish issues.

Scientific and Statistical Committee—On January 11 will convene at 1 p.m. to consider matters on the Council's agenda, and will reconvene January 12 at 8 a.m.

Groundfish Fishery Management Plan (FMP) Rewrite Oversight Group—On January 11 will convene at 1 p.m. to provide guidance to the drafting team designated to rewrite the Groundfish FMP, and will reconvene January 12 at 8 a.m.

Salmon Advisory Subpanel—On January 12 will convene at 1 p.m. to address salmon matters on the Council's agenda.

Salmon Plan Development Team—On January 12 will convene at 1 p.m. to address salmon items on the Council's agenda.

Indian Affairs Committee—On January 12 will convene at 7 p.m. to review its role in the salmon management process.

Foreign Fishing Committee—On January 13 will convene at 7 p.m. to address foreign fishing applications and whiting codend restrictions.

Detailed agendas for all of the above meetings will be available to the public after December 31, 1987. For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 SW First Avenue, Suite 420, Portland, OR 97201; telephone: (502) 221–6352.

Date: December 21, 1987.

Richard H. Schaefer,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 87–29657) Filed 12–24–87; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Restraint Limit for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Burma Effective on January 1, 1988

December 21, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 337–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Category 340/341/640/641/840, produced or manufactured in Burma and exported during the period January 1, 1988 through December 31, 1988, in excess of the designated limit.

Background

The Bilateral Textile Agreement, effected by exchange of notes dated August 25, 1987 and September 11, 1987, between the Governments of the United States and the Socialist Republic of the Union of Burma, establishes a specific limit for cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Category 340/341/640/641/840, produced or manufactured in Burma and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement, effected by exchange of notes August 25, 1987 and September 11, 1987, between the Governments of the United States and the Socialist Republic of the Union of Burma; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Category 340/341/640/641/840, produced or manufacturd in Burma and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988, in excess of the following level of restraint:

Category	12-mo. limit
340/341/640/641/640	265,00 dozen of which not more than 212,000 dozen shall be in Category 340/640/840.

To the extent that trade which now falls in the foregoing categories is within a category limit for the period January 1, 1987 through December 31, 1987, such trade, to the extent of any unfilled balance, shall, be charged against the level of restraint established for such goods during that period. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

The limit is subject to adjustment in the future pursuant to the provisions of the bilateral textile agreement, which provide, in part, that: (1) growth of 6 percent shall be available in each future year through 1990. Carryover of 11 percent and carryforward of 6 percent shall be available, with the combination of carryover and carryforward not to exceed 11 percent; (2) no carryforward shall be available in the last agreement year.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29625 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of an Import Limit for Certain Cotton Textile Products for El Salvador Effective on January 1, 1988

December 21, 1987.

The Chairman of the Committee of the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Custom sport. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textiles and textile products in Categories 300/301, produced or manufactured in El Salvador and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988, in excess of the designated level.

Background

The Bilateral Cotton Textile Agreement, effected by exchange of notes dated March 2, 1987 and April 30, 1987, between the Governments of the United States and the Republic of El Salvador, as translated to the new category system, establishes a designated consultation level for certain cotton textile products in Categories 300/301 (carded and combed cotton yarn), produced or manufactured in El Salvador and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

The letter to the Commissioner of Customer and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton Textile Agreement, effected by exchange of notes dated March 2, 1987 and April 30, 1987, between the Governments of the United States and the Republic of El Salvador; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 300/301, produced or manufactured in the Republic of El Salvador and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988, in excess of 8,500,000 pounds.

To the extent that trade which now falls in the foregoing categories is within a category limit for the period January 1, 1987 through December 31, 1987, such trade, to the extent of any unfilled balances, shall be charged against the level of restraint established for such goods during that period. In the event the limit established for the period has been exhausted by previous entries, such goods shall be subject to the limit set forth in this directive.

The limit set forth above is subject to adjustment in the future according to the provisions of the bilateral agreement, effected by exchange of notes dated March 2, and April 30, 1987, between the Governments of the United States and the Republic of El Salvador, which provide, in part, that administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29620 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Restraint Levels and Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products From Haiti Effective on January 1, 1988

December 21, 1987.

The Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, and the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United States, and pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986) and 52 FR 26057 (July 10, 1987), has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information, contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton and man-made textile products, produced or manufactured in Haiti and exported during 1988, in excess of the designated twelve-month levels.

In addition, the Commissioner is also directed to establish guaranteed access levels for certain properly certified cotton and man-made fiber textile products which are assembled in Haiti from fabric formed and cut in the United States and exported during the same twelve-month period.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of letters dated September 26, and 30, 1986, as amended, between the Governments of the United States and Haiti, and as translated to the new category system, establishes designated consultation levels for Categories 331, 337/637, 340/640, 341/641, 347/348 and 350, exported during the agreement year which begins on January 1, 1988 and extends through December 31, 1988.

In addition to the designated consultation levels, the bilateral agreement also establishes guaranteed access levels for properly certified textile products assembled in Haiti from fabric formed and cut in the United States within Categories 331, 337/637, 340/640, 341/641, 347/348, 349/649 and 350, exported from Haiti during the agreement year which begins on January 1, 1988 and extends through December 31, 1988.

Textile products in Categories 331, 337/637, 341/641, 347/348, 340/640, 349/649 and 350 which are exported from Haiti on or after January 1, 1988, qualifying for the Special Access Program for entry under TSUSA 807.0010, must be accompanied by a properly completed CBI Export Declaration (Form ITA-370P).

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1987

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 26 and 30, 1986, as amended, between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption or withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Haiti and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988, in excess of the following designated levels:

Category	12-Mo. restraint level
331	310,000 dozen pairs.
337/637	160,000 dozen.
340/640	310,000 dozen.
341/641	320,000 dozen.
347/348	350,000 dozen.
350	32,000 dozen.

To the extent that trade which now falls in the foregoing categories is within a category limit for the period January 1, 1987 through December 31, 1987, such trade, to the extent of any unfilled balances, shall be charged against the levels of restraint established for such goods during that period. In the event limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

In accordance with the provisions of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986) and 52 FR 26057 (July 10, 1987), you are directed to establish guaranteed access levels for properly certified cotton and man-made fiber textile products in the following categories which are assembled in Haiti from fabric formed and cut in the United States and exported to the United States from Haiti during the twelve-month period which begins on Janaury 1, 1988 and extends through December 31, 1988.

Category	Guaranteed access level
331	500,000 dozen pairs.
337/637	300,000 dozen.
340/640	440,000 dozen.
341/641	400,000 dozen
347/348	800,000 dozen.
349/649	2,500,000 dozen.
350	120,000 dozen.

Any shipment for entry under TSUSA 807.0010 which is not accompanied by a valid and correct certification and CBI Export Declaration in accordance with the provisions of the certification requirements established in the directive of February 19, 1987 shall be denied entry unless the Government of Haiti authorizes the entry and any charges to the appropriate designated consultation levels. Any shipment which is declared as TSUSA 807.0010 but found not to qualify for the Special Access Program may be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29621 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Restraint Limits for Certain Cotton Textile Products Produced or Manufactured in Nepal Effective on January 1, 1988

December 21, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 337, 340, 341 and 342, produced or manufactured in Nepal and exported during 1983, in excess of the designated levels.

Background

The Bilateral Cotton Textile Agreement of May 30 and June 1, 1986 establishes specific import limits for cotton textile products in Categories 337 (playsuits and sunsuits), 340 (non-knit shirts), 341 (non-knit shirts and blouses) and 342 (skirts), produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 1988 and extending through December 31, 1988. The United States has decided to control these categories at the designated levels.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1987

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton Textile Agreement of May 30 and June 1, 1986, between the Governments of the United States and Nepal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 337, 340, 341 and 342, produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 1988 and extending through December 31, 1988, in excess of the following restraint limits:

Category	12-Mo. restraint limit
337	84,270 dozen.
340	202,248 dozen.
341	674,160 dozen.
342	112,360 dozen.

To the extent that trade which now falls in the foregoing categories is within a category limit for the period January 1, 1987 through December 31, 1987, such trade, to the extent of any unfilled balances, shall be charged against the levels of restraint established for such goods during that period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of May 30 and June 1, 1986 between the Governments of the United States and Nepal which provide, in part, that: (1) restraint limits may be exceeded by designated percentages; (2) restraint limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29626 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Restraint Limits for Certain Cotton and Wool Apparel Products Produced or Manufactured in Uruguay Effective on January 1, 1988

December 21, 1987.

The Chairman of the Committee for the Inplementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1988. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton and wool apparel products in Categories 335, 433, 434, 435 and 442, produced or manufactured in Uruguay and exported during the six-month period which begins on January 1, 1988 and extends through June 30, 1988, in excess of the designated restraint limits.

Background

The Bilateral Cotton and Wool Textile Agreement of December 30, 1983 and January 23, 1984, as amended, between the Governments of the United States and Uruguay, and as translated to the

new category system, establishes specific limits for cotton and wool apparel in Categories 335, 433, 434, 435 and 442, produced or manufactured in Uruguay and exported during the period which begins on January 1, 1988 and extends through June 30, 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

December 21, 1987

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton and Wool Textile Agreement of December 30, 1983 and January 23, 1984, as amended, between the Governments of the United States and Uruguay; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1988, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool apparel products in the following categories, produced or manufactured in Uruguay and exported during the six-month period which begins on January 1, 1988 and extends through June 30, 1988, in excess of the following restraint limits:

Category	Restraint limit
335	33,500 dozen.
433	7,709 dozen.
434	11,500 dozen.
435	23,225 dozen.
442	15,497 dozen.

To the extent that trade which now falls in the foregoing categories is within a category limit for the period July 1, 1987 through December 31, 1987, such trade, to the extent of any unfilled balances, shall be charged against the levels of restraint established for such goods during that period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this directive.

These limits are subject to adjustment in the future according to the provisions of the bilateral agreement, as amended, which provide, in part, that: (1) the specific limits may be adjusted for carryover and carryforward, and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29622 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of an Import Level for Certain Cotton Textile Products Produced or Manufactured in the Dominican Republic

December 21, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 28, 1987. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the import restraint limit for cotton textile products in Category 340, produced or manufactured in the Dominican Republic and exported during the period which began on June 1, 1987 and extends through May 31, 1988, as the designated level.

Background

A CITA directive dated May 18, 1987 (52 FR 19190) established import limits for certain cotton and man-made fiber textile products, including Category 340, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began June 1, 1987 and extends through May 31, 1988.

During consultations held September 21-22, 1987 between the Governments of the United States and the Dominican Republic, agreement was reached to amend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 18, 1986, to increase the designated consultation level for Category 340, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on June 1, 1987 and extends through May 31, 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15173), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1987.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of May 18, 1987, which directed you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on June 1, 1987 and extends through May 31, 1988.

Effective on December 28, 1987, the directive of May 18, 1987 is hereby amended to increase the level for cotton textile

products in Category 340 to a level of 210,000 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29629 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan; Correction

December 21, 1987.

In the table of the letter to the Commissioner of Customs published in the **Federal Register** on October 27, 1987 (52 FR 41317), the unit of measure for Category 659-I should be corrected to read "pounds", instead of "dozen."

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29628 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DR-M

New Export Visa Arrangement for Certain Textiles and Textile Articles Produced or Manufactured in the Arab Republic of Egypt

December 21, 1987

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 15, 1988. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioners of Customs to prohibit entry into the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) for consumption, and withdrawal from warehouse for consumption, of certain textiles and textile articles, as specified, for which the Government of the Arab Republic of Egypt has not issued an appropriate export visa.

[1] The limit has not been adjusted to reflect any imports exported after May 31, 1987.

Background

The Governments of the United States and the Arab Republic of Egypt have exchanged letters dated July 14 and November 2, 1987 establishing a new export visa arrangement concerning cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Egypt.

Effective on January 15, 1988, commercial shipments of textiles and textile articles of cotton, wool and man-made fibers, other vegetable fibers, blends of any of the foregoing fibers and blends containing silk but not including garments which contain 70 percent or more silk by weight, or products other than garments which contain 85 percent of more silk by weight, regardless of value, in Categories 300-369, 400-469, 600-670 and 800-899, exported on or after January 15, 1988 must be accompanied by a valid visa that includes the correct category(s), part category(s), merged category(s), quantity(s) and unit(s) of quantity as described in the letter published below to the Commissioner of Customs.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments under $250 in total value do not require a visa for entry and shall not be charged to the agreement levels.

A facsimile of the visa stamp has been furnished to the Commissioner of Customs. A copy of the facsimile may be obtained from the Office of Textiles and Apparel, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room H3100, U.S. Department of Commerce.

Interested persons are advised to take all necessary steps to ensure that textiles and textile articles, as described above, produed or manufactured in Egypt and exported on and after January 15, 1988, which are to be entered or withdrawn from warehouse for consumption into the United States will meet the requirements set forth in this notice.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the export visa arrangement concerning cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, effected by exchange of letters dated July 14 and November 2, 1987, between the Governments of the United States and the Arab Republic of Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 15, 1988, entry into the Customs territory of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) for consumption, and withdrawal from warehouse for consumption, textiles and textile articles of cotton, wool, man-made fiber, other vegetable fibers, blends of any of the foregoing fibers and blends containing silk but not including garments which contain 70 percent or more silk by weight, or products other than garments which contain 85 percent or more silk by weight, regardless of value, in Categories 300-369, 400-469, 600-670 and 800-899, including merged Categories 300/301, produced or manufactured in Egypt and exported on or after January 15, 1988 from Egypt for which the Government of Egypt has not issued an appropriate visa.

A valid export visa must accompany each commercial shipment of the aforementioned textiles and textile articles.

However, should additional categories, merged categories or part categories be added to the bilateral agreement or become subject to import quotas, the entire category or categories shall be automatically included in coverage of the visa arrangement. Merchandise exported on or after the date the category(s) is added to the agreement or becomes subject to import quotas shall require a visa subject to a grace period to establish the required administrative procedures. Notification will be provided when additions or changes are made.

Textiles and textile articles of cotton, wool, man-made fibers, other vegetable fibers, blends of any of the foregoing fibers and silk blends exported from Egypt on or after January 15, 1988 shall be visaed by the stamping of the original circular visa in blue ink on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original of the invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in a standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, the two character alpha country code specified by the International Organization for Standardization (ISO), (the code for Egypt is "EG") and a six digit numeric serial number identifying the shipment; e.g., 7EG123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The signature of the issuing official.

4. The correct category(s), merged category(s), part category(s), qunatity(s), and unit(s) of quantity in the shipment in the unit(s) of quantity provided for the U.S. Department of Commerce Correlation and in the U.S. Tariff Schedules of the United States Annotated (TSUSA) (e.g., "Cat. 340–510DZ"). Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., quota Category 300/301 may be visaed as "Cat. 300/301 or, if the shipment consists solely of Category 300 merchandise, the shipment may be visaed as "Cat. 300," but not as "Cat. 301).

A facsimile of the visa stamp is enclosed.

U.S. Customs shall not accept a visa and entry will not by permitted if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged.

If the visa is not acceptable to the U.S. Customs, a new visa must be obtained from the Egyptian Government or a visa waiver issued by the Government and presented to the U.S. Customs Service Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirment.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

If the quotas are in force, U.S. Customs shall charge only the actual quantity in the shipment and the correct category will be charged to the restraint level. If the shipment from Egypt has been allowed entry into the commerce of the United States with either an incorrect visa or no visa and redelivery is requested but cannot be made, U.S. Customs shall charge the shipment to the correct category limit whether or not a replacement visa or visa waiver is provided.

Any shipment which requires a visa but which is not accompanied by a valid and correct visa in accordance with the foregoing provisions shall be denied entry by U.S. Customs Service unless the Government of Egypt authorizes the entry and any charges to the agreement levels through the visa waiver process.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments under $250 in total value do not require a visa for entry and shall not be charged to the agreement levels.

The actions taken with respect to the Government of Egypt and with respect to imports of textiles and textile articles of cotton, wool, man-made fiber, other vegetable fiber, blends of any of the foregoing fibers and silk blends from Egypt have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register**.

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–29623 Filed 12–24–87; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Consultations With the Government of the Dominican Republic

December 21, 1987.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on categories on which consultations have been requested call (202) 377–3740.

On November 30, 1987, the United States Government, in accordance with section 204 of the Agricultural Act of 1956, requested the Government of the Dominican Republic to enter into consultations concerning exports to the United States of cotton knit shirts in Categories 338/339, cotton and man-made fiber skirts in Categories 342/642 and man-made fiber trousers, slacks and shorts in Categories 647/648, produced or manufactured in the Dominican Republic.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with the Dominican Republic, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber products in Categories 338/339, 342/642 and 647/648, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period which began on November 30, 1987 and extends through November 29, 1988, at levels of 486,916 dozen for Categories 338/339; 322,465 dozen for Categories 342/642 and 682,777 dozen for Categories 647/648.

Summary market statements for these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Anyone wishing to comment or provide data or information regarding the treatment of Categories 338/339, 342/642 and 647/648 or to comment on domestic production or availability of textile products included in the categories, is invited to submit such comments or information in ten copies to Mr. James H. Babb, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room H 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the Dominican Republic, further notice will be published in the **Federal Register**.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Dominican Republic—Market Statement

Category 338/339—Cotton Knit Shirts and Blouses

November 1987.

Summary and Conclusions

U.S. imports of Category 338/339 from the Dominican Republic were 486,916 dozen during the year ending August 1987, double the 246,361 dozen imported a year earlier. During the first eight months of 1987, imports

of Category 338/339 from the Dominican Republic reached 359,848 dozen, two times the 165,599 dozen imported during the same period of 1986 and 23 percent above the total imported in calendar year 1986.

The market for Category 338/339 has been disrupted by imports. The sharp and substantial increase in imports from the Dominican Republic has contributed to this disruption.

U.S. Production and Market Share

U.S. production of cotton knit shirts and blouses has been on the decline, dropping from 24.6 million dozen in 1982 to a depressed 19 million dozen in 1985, a decline of 23 percent. Production in 1986 partially recovered from 1985, reaching 20.4 million dozen, but remained 12 percent below the 1984 level and 16 percent below the 1983 level. The domestic manufacturers' share of the market dropped 19 percentage points in four years, falling from 63 percent in 1982 to 44 percent in 1986.

U.S. Imports and Import Penetration

U.S. imports of Category 338/339 grew from 14.6 million dozen in 1982 to 25.5 million dozen in 1986, a 74 percent increase. During the first eight months of 1987 imports of Category 338/339 reached 22 million dozen, 28 percent above the level imported during the same period in 1986. The ratio of imports to domestic production more than doubled, increasing from 60 percent in 1982 to 125 percent in 1986.

Duty-Paid Value and U.S. Producers' Price

Approximately 66 percent of Category 338/339 imports from the Dominican Republic during the first eight months of 1987 entered under TSUSA numbers 381.0240—men's and boys' cotton knit shirts, excluding T-shirts and tank tops, ornamented; 381.4130—men's and boys' cotton knit shirts, excluding T-shirts, sweatshirts, and tank tops, not ornamented; 384.2815—women's cotton knit blouses, excluding tank tops, not ornamented; and 384.2980—infants' (excluding infant boys' over 24 months of age) cotton knit shirts, excluding T-shirts and sweatshirts, not ornamented. These garments entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable garments.

Dominican Republic—Market Statement

Category 342/642—Cotton Knit and Man-made Fiber Skirts

November 1987.

Summary and Conclusions

U.S. imports of Category 342/642 from the Dominican Republic were 322,465 dozen during the year ending August 1987, more than two times the 134,817 dozen imported a year earlier. During the first eight months of 1987, imports of Category 342/642 from the Dominican Republic reached 227,758 dozen, double the 109,682 dozen imported during the same period of 1986, 11 percent above the total imported in calendar year 1986, and nearly three times the 80,265 dozen shipped in calendar year 1985.

The market for Category 342/642 has been disrupted by imports. The sharp and substantial increase in imports from the Dominican Republic has contributed to this disruption.

U.S. Production and Market Share

U.S. production of cotton and man-made fiber skirts has been on the decline, dropping from 9,101 thousand dozen in 1982 to a depressed 7,940 thousand dozen average during 1984 and 1985, a decline of 13 percent. Production in 1986 partially recovered reaching 8,126 thousand dozen, but remained below the 1983 level and was 11 percent below the 1982 level. The domestic manufacturers' share of the market dropped 25 percentage points in just four years, falling from 83 percent in 1982 to 58 percent in 1986.

U.S. Imports and Import Penetration

U.S. imports of Category 342/642 at 5,995 thousand dozen in 1986 was more than three times the amount imported in 1982. Category 342/642 imports increased 33 percent during the first eight months of 1987 over January-August 1986. The ratio of imports to domestic production nearly quadrupled increasing from 20 percent in 1982 to 74 percent in 1986.

Duty-Paid Value and U.S. Producer's Price

Approximately 80 percent of Category 342/642 imports from the Dominican Republic during the first eight months of 1987 entered under TSUSA numbers 384.5251—women's cotton woven skirts, not of corduroy, denim or velveteen, not ornamented and 384.9445 women's man-made fiber woven skirts, not ornamented. These skirts entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable skirts.

Dominican Republic—Market Statement

Category 647/648 Man-made Fiber Trousers, Slacks and Shorts

November 1987.

Summary and Conclusions

U.S. imports of Category 647/648 from the Dominican Republic were 682,777 dozen during the year ending August 1987, 33 percent above the 514,053 dozen imported a year earlier. During the first eight months of 1987, imports of Category 647/648 from the Dominican Republic reached 464,896 dozen, 29 percent above the level imported during the same period of 1986. In 1986 Category 647/648 man-made fiber trouser, slack and short imports from the Dominican Republic were 579,676 dozen; in 1985 imports totaled 412,634 dozen.

The market for Category 647/648 has been disrupted by imports. The sharp and substantial increase in imports from the Dominican Republic has contributed to this disruption.

U.S. Production and Market Share

U.S. Production of man-made fiber trousers, slacks, and shorts had been relatively flat during the 1982 through 1985 period, averaging approximately 40,959 thousand dozen. In 1986, U.S. production dropped to 39,890 thousand dozen, 2.6 percent below the 1982–85 average level. The domestic manufacturers' share of the market declined 6 percentage points between 1982 and 1985, falling from 76 percent in 1982 to 70 percent in 1985. In 1986, the domestic manufacturers' share dropped another 5 percentage points, plunging to 65 percent.

U.S. Imports and Import Penetration

U.S. imports of Category 647/648 grew from 13.2 million dozen in 1982 to 21.7 million dozen in 1986, a 65 percent increase. During the first eight months of 1987 imports of Category 647/648 reached 15.8 million dozen, 5 percent above the level imported during the same period in 1986. The ratio of imports to domestic production increased from 32 percent in 1982 to 55 percent in 1986.

Duty-Paid Value and U.S. Producer's Price

Approximately 71 percent of Category 647/648 imports from the Dominican Republic during the first eight months of 1987 entered under TSUSA numbers 381.9575—men's man-made fiber woven trousers and slacks, not ornamented and 384.9000—women's man-made fiber woven trousers and slacks, excluding those non-woven disposable trousers and slacks designed for use in hospitals, clinics, laboratories, or contaminated areas, not ornamented. These garments entered the U.S. at duty paid landed values below U.S. producers' prices for comparable garments.

[FR Doc. 87–29264 Filed 12–24–87; 8:45 am]
BILLING CODE 3510-DR-M

Implementation of 1988 Import Controls and Visa Arrangements Based on the Harmonized System

December 21, 1987.

For Further Inforamtion Contact: Martin J. Walsh International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Pending the implementation of the Harmonized Commodity Code (HCC), the 1988 import restraint limits for textile and apparel products are being published in the **Federal Register** in current category units. However, upon adoption of the HS, the Commissioner of Customs will be directed to convert the units of measure to metric units as indicated below. These directives will not be published in the **Federal Register**.

1. All limits in square yards (syd) or square yards equivalent (sye) shall be converted to square meters (sm) or square meters equivalent (sme), respectively, at the rate of 0.8312736 sm (or sme) per syd (or sye). More simply, multiply the sye times 0.83612736 to obtain the square meters equivalent.

2. All limits in pounds (lbs) shall be converted to kilograms (kg) at the rate of 0.45359237 kg per lb. More simply, multiply the pounds times 0.45359237 to obtain the kilograms.

3. All 7-digit tariff schedule numbers (based on the Tariff Schedules of the United States Annotated-TSUSA) referred to in the 1988 import control directives shall be replaced by the appropriate 10-digit Harmonized

Commodity Code tariff schedule number.

Similarly, visa systems, and any changes to visa systems for 1988 already published, will be modified when the HCC goes into effect.

1. Correct units will be sm, sme and kg. instead of syd, sye and lbs, respectively.

2. Seven-digit TSUSA numbers will be replaced by 10-digit HCC tariff schedule number.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-29627 Filed 12-24-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1988; Establishment; Notice Correction

In FR Doc. 87-28208 appearing at page 46925 in the issue for Thursday, December 10, 1987, make the following corrections:

1. On page 46926, second column, under CLASS 1680, Wire Bundle Assemblies, in the fourth line the two-digit number reading "-00" should read "-01".

2. On page 46927, third column, under CLASS 5440, the five-digit number reading "54400-" should read "5440" in all lines under Ladder, Extension (Wood) and under Ladder, Straight (Wood) and the first nine lines under Stepladder. The four-digit number reading "5540-" in the last line under Stepladder should read "5440-".

3. On page 46927, third column, under CLASS 5510, Stake, Wood the first line should read "5510-00-NSH-0001 BLM at 5 Oregon".

4. On page 46929, second column, under CLASS 7210, Boxspring, fifth and sixth lines, the two-digit number reading "-01" should read "-00".

5. On page 46929, second column, the last line in the column, the two-digit number reading "-01" should read "-00".

6. On page 46932, first column, near the botton of the column under Paper, Looseleaf, Ruled, in the seventh line, the three-digit number reading "-286" should read "-198".

7. On page 46934, second column, under CLASS 8340, Line, Tent, in the seventh line, the four-digit number reading "-9789" should read "-9689".

8. On page 46935, first column, third line, the three-digit number reading "-835" should read "-825".

9. On page 46935, first column, fifty-third line, the four-digit number reading "-0552" should read "-0542".

10. On page 46935, third column, under CLASS 8430, Footwear Cover, after the fourth line insert the following as the next line: "8430-01-162-4453".

C.W. Fletcher,

Executive Director.

[FR Doc. 87-29635 Filed 12-24-87; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1988 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1988 a commodity to be produced by and service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 28, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 9, and October 23, 1987, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (52 FR 37819 and 39678) of additions to Procurement List 1988, December 10, 1987 (52 FR 46926).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodity and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6. I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the services listed.

c. The action will result in authorizing small entities to provide the commodity and service procured by the Government.

Accordingly, the following commodity and service are hereby added to Procurement List 1988.

Commodity

Cover, Cushion Assembly, 2540-01-245-2524, 2540-01-245-2525, 2540-01-245-2526, 2540-01-246-6212.

Service

Grounds Maintenance, Veterans Administration Medical Center, Palo Alto, California.

C.W. Fletcher,

Executive Director.

[FR Doc. 87-29636 Filed 12-24-87; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1988 Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped

ACTION: Proposed additions and deletions to procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1988 a commodity and services produced or provided by workshops for the blind or other severely handicapped.

DATES: Comments must be received on or before: January 28, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1988, December 10, 1987 (52 FR 46926).

Services

Janitorial/Custodial, Federal Supply Service Depot, 4100 W. 76th Street, Chicago, Illinois.

Janitorial Service, U.S. Courthouse, 312 N. Spring Street, Los Angeles, California.

Deletions

It is proposed to delete the following commodity and service from Procurement List 1988, December 10, 1987 (52 FR 46926):

Commodity

Tube, Mailing and Filing, 8110–00–412–4410.

Service

Pallet Repair, Navy Supply Center, Cheatham Annex, Williamsburg, Virginia.

C.W. Fletcher,

Executive Director.

[FR Doc. 87–29637 Filed 12–24–87; 8:45 am]

BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity option contract.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has applied for designation as a contract market in options on Mortgage-Backed futures. The application also contains a petition for an exemption for the volume requirement for the underlying futures contract specified in the Commission's rules. The Director of the Division of Economic Analysis ("Division") of the Commission, acting pursuant to the authority delegated by Commission Regulation § 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before January 27, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CBT Mortgage-Backed futures option contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–7227.

SUPPLEMENTARY INFORMATION: In addition to requesting comment on the terms and conditions of the proposed Mortgage-Backed futures option contract, the Division also is requesting comment on the merits of a petition filed by the CBT pursuant to § 33.11 of the Commission's rules. That petition requests exemptive relief from the trading volume tests set forth in the Commission's rules. In that regard, § 33.4(a)(5)(iii) of the Commission's rules requires, as a condition of designation for proposed options on futures contracts, that the exchange demonstrate that:

> * * * the volume of trading in all contract months for futures delivery of the commodity for which the option designation is sought has averaged at least 3,000 contracts per week on such board of trade for the 12 months preceding the date of application for option contract market designation, or alternatively, that such futures contract market, based on its trading history, substantially meets this total volume requirement in less that the 12 months precedng the date of application: * * *

The Division notes that the CBT's Mortgage-Backed futures contract which will underlie the proposed option contract currently is not listed for trading and is dormant under Commission Regulations § 5.2. No trades have occurred in the contract since September 1986. Pursuant to the requirements in Regulations § 5.2 governing the reactivation of dormant contracts, the Exchange has submitted a proposal to list additional months in that futures contract.[1]

As discussed in more detail in previous **Federal Register** notices (see, for example, 52 FR 41755, October 30, 1987), the Commission has stated that it believes that, at the minimum, a petition may be granted only if the underlying cash market for the commodity exhibits a high level of liquidity. Cash market liquidity would be evidenced by extensive and frequent trading activity, a large number of participants in the market, and tight bid/ask spreads. Further, the terms of the futures contract should ensure the opportunity for arbitrage and close alignment between the cash and futures markets. In combination, the liquidity of the underlying cash market and the opportunities for arbitrage are major factors in determining the extent to which a less liquid futures contract could be disrupted by the exercise of options and the alternatives available to those exercising the options. In addition, to enable position holders to evaluate accurately the value of their option positions in the absence of active trading in the underlying futures contract, the Commission stated its belief that there should exist an accurate and widely available price series which would be representative of values of the commodity underlying the future.[2]

In requesting comment on the CBT's proposed option on Mortgage-Backed futures, the Division is seeking specific comment on whether it should grant the CBT's request for an exemption from the requirements of § 33.4(a)(5)(iii) for the proposed contract. Commenters are requested to consider the issues noted above. Also, commenters are requested to address whether, if the petition were granted, additional surveillance activities and expiration reviews, particularly at the outset of trading, should be implemented by the CBT for the proposed contract.

Copies of the terms and conditions of the proposed contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address of by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance

[1] The Mortgage-Backed futures contract of the CBT which will underlie the proposed option contract currently is called the GNMA futures contract. In conjunction with its proposal to reactivate this futures contract, the CBT has submitted for Commission consideration a proposal to amend several terms and conditions of the GNMA futures contract, including changes to the cash settlement procedures and the procedures for listing contract months as well as a change in the name to "Mortgage-Backed" futures. Those proposals currently are under review at the Commission. The Division also notes that another mortgage-related futures contract, the GNMA (CDR) futures contract, is currently listed for trading at the CBT.

[2] The Division notes that in those cases where the underlying futures contract fails to develop a sufficient level of trading volume, the option on the futures contract would become subject to the delisting criteria set forth in § 5.4 of the Commission's rules. Specifically, if the volume in the underlying futures contract market falls below an average weekly volume of 1,000 contracts for all months listed for the six-month period following designation of the option contract, no new option contract month may be listed until the volume in the underlying futures contract rises above an average of 2,000 contracts per week for all trading months listed for a period of three consecutive months.

Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures option contract or the petition, or with respect to other materials submitted by the CBT in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC. on December 22, 1987.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 87-29642 Filed 12-24-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Closed Meetings

AGENCY: Defense Intelligence Agency Scientific Advisory Committee, DOD.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that closed meetings of a panel of the DIA Scientific Advisory Committee have been scheduled as follows:

DATE: 25 January, 24 February and 23 March 1988 (9:00 a.m. to 5:00 p.m. each day).

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meetings will be devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on tactical intelligence information handling systems.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 22, 1987.

[FR Doc. 87-29673 Filed 12-24-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Strategic Arms Reduction Treaty (START) Verification Procedures; Meetings

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Strategic Arms Reduction Treaty (START) Verification procedures will meet in closed session on January 21, 1988 at the Pentagon, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review verification aspects with regard to U.S. Programs, facilities, technologies and defense contractors and determine which START verification approaches are most appropriate from the acquisition viewpoint.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 22, 1987.

[FR Doc. 87-29674 Filed 12-24-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information; Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Existing Collection in Use Without an OMB Control Number

Application for US Army ROTC 2 and 3 Year Scholarship; ROTC Cadet Command Form 166-R

The application forms the basis to award 2 and 3 year scholarships. Through the ROTC scholarship program the Army acquires quality young men and women as commissioned officers.

Individuals or Households

Reponses: 5,500.

Burden Hours: 2,750.

OMB Desk Officer: Mr. Edward Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Edward Springer at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mrs. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from Mrs. Pearl Rascoe-Harrison at WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone 202/746-0933.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 22, 1987.

[FR Doc. 87-29675 Filed 12-24-87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" pursuant to the Taiwan Relations Act of 1979 (Pub. L. 96-8).

The subsequent arrangement to be carried out under the above-mentioned authority involves approval of the following sale:

Contract Number S-CI-22, for the supply of 21.194 grams of uranium-238 for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be

inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 22, 1987.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 87-29571 Filed 12-34-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Proposed Consent Order; Vessels Gas Processing Co. et al

AGENCY: Economic Regulatory Administration. DOE.

ACTION: Notice of proposed consent order and opportunity for comments.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") announces a proposed Consent Order with Vessels Gas Processing Company ("VGPC"), Vessels Gas Processing, Ltd ("VGPL") (sometimes collectively referred to as "Vessels") and Halliburton Company ("Halliburton") (all three companies are collectively referred to as the "Firms") for $1,500,000.

DATE: Comments by January 27, 1988.

ADDRESS: Send comments to Vessels Comments, Office of the Solicitor, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW.,Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Whieldon, Office of Solicitor (RG-43), Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, DC 20585. Copies of the proposed Consent Order may be obtained free of charge by writing or calling this office at (202) 586-4235.

SUPPLEMENTARY INFORMATION: On November 3, 1987, the ERA executed a proposed Consent Order with the Firms. Under 10 CFR 205 through 199J(b), a proposed Consent Order which involves the sum of $500,000.00 or more, excluding interest and penalties, becomes effective no sooner than thirty (3) days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although ERA has signed and tenatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order, or issue the Consent Order as signed. DOE's final decision will be published in the **Federal Register**, along with an analysis of and response to the significant comments, as well as any other considerations that were relevant to the decision.

I. Background

The stipulated facts upon which the Consent Order is based are as follows:

During the period covered by this Consent Order VGPC, VGPL, and or Halliburton owned and operated gas plants for the processing of natural gas. Natural gas liquids ("NGLs") and natural gas liquid products ("NGLPs") were produced at and sold from those plants during the period covered by this Consent Order. These sales were subject to the federal petroleum price and allocation regulations, as codified in 10 CFR Parts 205, 210, 211, 212 and prior provisions.

The DOE audited Vessels' and Halliburton's compliance with the federal petroleum rice and allocation regulations. The audit encompassed a review of Vessels' policies and procedures pertaining to, and Vessels' compliance with, the applicable federal petroleum price and allocation regulations, including the reporting requirements incidental to those regulations as they pertain to NGLs and NGLPs processed and sold at the Bennett, Brighton and Irondale plants owned and operated by Halliburton Resource management, a division of Halliburton. In addition, at DOE's request, Vessels prepared and submitted to DOE a substantial number of specific responses to audit inquiries not necessarily limited to, or readily available from, individual books and records.

As a result of this audit the DOE issued a Remedial Order on October 7, 1986, which found that the Firms had overcharged in their sales of propane and NGLs during the period from September 1, 1973 through December 31, 1977, in the amount of $1,571,671.40, plus interest of $2,983,858.55 through September 30, 1986. (15 DOE ¶ 83,002).

The Firms maintain that they calculated costs, determined prices, sold propane and NGLs and operated in all other respects in accordance with the federal petroleum price and allocation regulations. The Firms deny the findings set forth in the Remedial Order and are presently appealing it before the Federal Energy Regulatory Commission.

During negotiations which led to the settlement noticed herein, the Firms proffered arguments on several issues which, if successful, could substantially reduce or eliminate certain of the alleged overcharges. Those areas include prenotification, the allowability of processing fees at the Irondale plant, the definition of "NGL" with respect to the B/G mix, natural gas base price adjustment, and non-product costs adjustment. Additionally, Halliburton continues to contend that it is not liable for any of the overcharges since it neither owned nor sold NGLs or NGLPs.

Based upon an anlaysis of the litigation risks associated with all such arguments, particularly the issue of Halliburton's liability, and a review of the financial condition of VGPL and VGPC, ERA has concluded that a total joint payment of $1,500,000 ($750,000 from the Vessels entities and $750,000 from Halliburton) is a satisfactory compromise of the issues raised in the audit.

II. Consent Order

The proposed Consent Order has been entered into by DOE and the Firms in order to resovle all civil and administrative disputes, claims, and causes of action by DOE against the Firms relating to their compliance with the Federal petroleum price and allocation regulations during the period January 1, 1973 through January 27, 1981. Although the Firms contend that in all respects they correctly construed and applied the applicable regulations, they have entered into this proposed Consent Order to avoid possible further expenses and disruption of business. DOE believes the proposed Consent Order is in the public interest and provides a satisfactory resolution of the issues raised by the audit.

III. Refunds

Under the terms of the Consent Order Halliburton is required to pay the sum of $750,000.00 within thirty (30) days of the effective date of the Consent Order.

VGPL is required to pay the sum of $250,000.00 plus interest at the rate of 7.5% on any unpaid principal amount as follows: $25,000 on or before thirty (30) days after the effective date of the Consent Order; $10,000 per month for a period of twenty-four months, the first monthly payment due sixty (60) days after the effective date of the Consent Order; and a final payment in the twenty-fifth month of $3,243.62.

VGPC is required to pay the sum of $500,000.00 plus interest at 7.5% on any unpaid principal amount as follows: $5,000 on or before thirty (30) days after the effective date of the Consent Order; $10,000 per month for a period of fifty-

nine months, the first monthly payment due sixty (60) days after the effective date of the Consent Order; and a final payment in the sixtieth month of $4,109.68.

DOE will petiton the Office of Hearings and Appeals for distribution of the settlement amount pursuant to the special refund procedures of 10 CFR Part 205, Subpart V.

IV. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this proposed Consent Order to the address given above. The ERA will consider all comments it receives by 4:30 p.m., local time, on the 30 day after the date of publication of this notice. Any information or date considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, DC, on this 17th day of December, 1987.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 87-29570 Filed 12-24-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. St88-1-000 et al.

Arkansas Western Gas Co. et. al.; Self-Implementing Transactions

December 22, 1987

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). [1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 384.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline company on behalf of any shipper pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations or pursuant to blanket certificate authority granted under § 284.225 of 284.226 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to a transaction reflected in this notice should on or before January 8, 1988, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commision will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cahsell,

Acting Secretary.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0001	Arkansas Western Gas Co	ARKLA Energy Resources	10-01-87	C	02-28-88	11.76
ST88-0002	ANR Pipeline Co	UGI Corp	10-01-87	B		
ST88-0003	do	Michigan Consolidated Gas Co	10-01-87	B		
ST88-0004	Northern Natural Gas Co	Northern Indiana Public Service Co	10-01-87	B		
ST88-0005	do	UGI Corp	10-01-87	B		
ST88-0006	do	Northern Illinois Gas Co	10-01-87	B		
ST88-0007	do	Pacific Gas and Electric Co	10-01-87	B		
ST88-0008	Tennessee Gas Pipeline Co	Ripley Natural Gas System	10-01-87	B		
ST88-0009	do	Masonite Corp	10-01-87	G-S		
ST88-0010	Transcontinental Gas Pipe Line Corp	Alabama Gas Corp	10-01-87	B		
ST88-0011	Columbia Gulf Transmission Co	South Carolina Power and Light, et al	10-02-87	B		

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the notices filing is in compliance with the Commission's Regulations.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0012	Natural Gas Pipeline Co. of America	Houston Pipe LIne Co	10-02-87	B		
ST88-0013	do	Northern Illinois Gas Co	10-02-87	B		
ST88-0014	do	Winnie Pipeline Co	10-02-87	B		
ST88-0015	Northern Natural Gas Co	Peoples Natural Gas Co	10-02-87	B		
ST88-0016	do	Coon Rapids Municipal Nat. Gas Dept	10-02-87	B		
ST88-0017	do	Southern California Gas Co	10-02-87	B		
ST88-0018	do	Lear Gas Transmission Co	10-02-87	B		
ST88-0019	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	10-02-87	B		
ST88-0020	do	do	10-02-87	B		
ST88-0021	do	Central Illinois Public Service Co	10-02-87	B		
ST88-0022	do	Central Illinois Light Co	10-02-87	B		
ST88-0023	do	do	10-02-87	B		
ST88-0024	do	do	10-02-87	B		
ST88-0025	do	Central Illinois Public Service Co	10-02-87	B		
ST88-0026	do	Central Illinois Light Co	10-02-87	B		
ST88-0027	do	Central Illinois Public Service Co	10-02-87	B		
ST88-0028	do	do	10-02-87	B		
ST88-0029	do	do	10-02-87	B		
ST88-0030	do	Central Illinois Light Co	10-02-87	B		
ST88-0031	do	do	10-02-87	B		
ST88-0032	do	do	10-02-87	B		
ST88-0033	do	do	10-02-87	B		
ST88-0034	do	do	10-02-87	B		
ST88-0035	do	do	10-02-87	B		
ST88-0036	do	do	10-02-87	B		
ST88-0037	SNG Intrastate Pipeline, Inc	Southern Natural Gas Co	10-02-87	C	02-29-88	25.00
ST88-0038	Trunkline Gas. Co	Consumers Power Co	10-02-87	B		
ST88-0039	do	do	10-02-87	B		
ST88-0040	do	do	10-02-87	B		
ST88-0041	do	do	10-02-87	B		
ST88-0042	do	do	10-02-87	B		
ST88-0043	do	do	10-02-87	B		
ST88-0044	do	do	10-02-87	B		
ST88-0045	do	do	10-02-87	B		
ST88-0046	do	do	10-02-87	B		
ST88-0047	do	do	10-02-87	B		
ST88-0048	Colorado Interstate Gas Co	do	10-05-87	B		
ST88-0049	Columbia Gulf Transmission Co	Texas Gas Transmission Corp	10-05-87	G		
ST88-0050	Columbia Gulf Transmission Co	Monterey Pipeline Co	10-05-87	B		
ST88-0051	Ong Transmission Co	Natural Gas Pipeline Co. of America	10-05-87	C	03-03-88	10.00
ST88-0052	do	Central Illinois LIght Co	10-05-87	B		
ST88-0053	do	Michigan Gas Utilities Co	10-05-87	B		
ST88-0054	do	Central Illinois LIght Co	10-05-87	B		
ST88-0055	do	Central Illinois Light Co	10-05-87	B		
ST88-0056	do	do	10-05-87	B		
ST88-0057	do	Central Illinois Light Co	10-05-87	B		
ST88-0058	do	Central Illinois Public Service Co	10-05-87	B		
ST88-0059	do	Ohio Valley Gas Corp	10-05-87	B		
ST88-0060	do	Central Illinois Public Service Co	10-05-87	B		
ST88-0061	do	Peoples Natural Gas Co	10-05-87	B		
ST88-0062	do	Central Illinois Public Service Co	10-05-87	B		
ST88-0063	do	Yankee Pipeline Co	10-05-87	B		
ST88-0064	do	Central Illinois Light Co	10-05-87	B		
ST88-0065	do	do	10-05-87	B		
ST88-0066	do	Central Illinois Public Service Co	10-05-87	B		
ST88-0067	do	do	10-05-87	B		
ST88-0068	do	Columbia Gas of VA, Inc., Et al	10-05-87	B		
ST88-0069	do	Central Illinois Light Co	10-05-87	B		
ST88-0070	do	Central Illinois Public Service Co	10-05-87	B		
ST88-0071	do	Ohio Gas Co	10-05-87	B		
ST88-0072	do	Central Illinois Public Service Co	10-05-87	B		
ST88-0073	do	Michigan Consolidated Gas Co	10-05-87	B		
ST88-0074	do	Illinois Power Co	10-05-87	B		
ST88-0075	do	Michigan Consolidated Gas Co	10-05-87	B		
ST88-0076	do	Central Illinois Public Service Co	10-05-87	B		
ST88-0077	do	Citizens Gas and Coke Utility	10-05-87	B		
ST88-0078	do	Missouri Public Service Co	10-05-87	B		
ST88-0079	do	Northern Indiana public Service Co	10-05-87	B		
ST88-0080	do	Central Illinois Light Co	10-05-87	B		
ST88-0081	do	Ohio Gas Co	10-05-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0082	....do	Northern Indiana Fuel & Light Co	10-05-87	B		
ST88-0083	....do	Michigan Consolidated Gas Co	10-05-87	B		
ST88-0084	....do	Central Illinois Public Service Co	10-05-87	B		
ST88-0085	....do	Central Illinois Light Co	10-05-87	B		
ST88-0086	....do	Woodward Pipeline, Inc	10-05-87	B		
ST88-0087	....do	Associated Intrastate pipeline Co	10-05-87	B		
ST88-0088	....do	....do	10-05-87	B		
ST88-0089	....do	Central Illinois Public Service Co	10-05-87	B		
ST88-0090	....do	....do	10-05-87	B		
ST88-0091	....do	....do	10-05-87	B		
ST88-0092	....do	Philadelphia Electric Co	10-05-87	B		
ST88-0093	....do	Stellar Gas Co	10-05-87	B		
ST88-0094	....do	Public Service Electric and Gas Co	10-05-87	B		
ST88-0095	....do	Creole Gas Pipeline Corp	10-05-87	B		
ST88-0096	....do	Philadelphia Electric Co	10-05-87	B		
ST88-0097	....do	Equitable Gas Co	10-05-87	B		
ST88-0098	....do	Boston Gas Co	10-05-87	B		
ST88-0099	Texas Eastern Transmission Corp	City of Smyrna	10-05-87	B		
ST88-0100	....do	Mississippi Fuel Co	10-05-87	B		
ST88-0101	Trunkline Gas Co	Humble Gas System, Inc	10-05-87	B		
ST88-0102	....do	Consumers Power Co	10-05-87	B		
ST88-0103	....do	Llano, Inc	10-05-87	B		
ST88-0104	Migc, Inc	Mgtc, Inc	10-06-87	B		
ST88-0105	Natural Gas Pipeline Co. of America	Iowa Electric Light & Power Co	10-06-87	B		
ST88-0106	Tennessee Gas Pipeline Co	Union Texas Petroleum Corp	10-07-87	G-S		
ST88-0107	....do	Gte Products Corp	10-07-87	G-S		
ST88-0108	....do	Valley Cities Gas Service	10-07-87	B		
ST88-0109	Colorado Interstate Gas. Co	Midwest Gas Marketing Corp., et al	10-07-87	B		
ST88-0110	....do	Coastal States Gas Transmission Co	10-07-87	B		
ST88-0112	....do	Southern California Edison	10-07-87	B		
ST88-0113	....do	Golden Gas Energies, Inc	10-07-87	B		
ST88-0114	....do	Lear Gas Transmission Co	10-07-87	B		
ST88-0115	El Paso Natural Gas Co	Pacific Gas and Electric Co	10-07-87	B		
ST88-0116	....do	El Paso Hydrocarbons Co	10-07-87	B		
ST88-0117	....do	Southern California Gas Co	10-07-87	B		
ST88-0118	Arkla Energy Resources	Arkansas Louisiana Gas Co	10-08-87	B		
ST88-0119	Algonquin Gas Transmission Co	Southern Connecticut Gas Co	10-08-87	B		
ST88-0120	Columbia Gas Transmission Corp	East Ohio Gas Co	10-08-87	B		
ST88-0121	Louisiana Resources Co	Texas Gas Transmission Corp	10-08-87	C	03-06-88	26.43
ST88-0122	....do	....do	10-08-87	C	03-06-88	26.43
ST88-0123	Tennessee Gas Pipeline Co	Nashville Gas Co	10-08-87	B		
ST88-0124	....do	Valley Cities Gas Service	10-08-87	B		
ST88-0125	....do	Connecticut Natural Gas Corp	10-08-87	B		
ST88-0126	ANR Pipeline Co	Wisconsin Public Service Co	10-09-87	B		
ST88-0127	....do	Stellar Gas Co	10-09-87	B		
ST88-0128	Louisiana Intrastate Gas Corp	Texas Gas Transmission Corp	10-09-87	C	03-07-88	22.40
ST88-0129	....do	....do	10-09-87	C	03-07-88	00.00
ST88-0130	Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	10-09-87	B		
ST88-0131	Panhandle Eastern Pipe Line Co	Peoples Natural Gas Co	10-09-87	B		
ST88-0132	....do	Michigan Gas Utilities Co.	10-09-87	B		
ST88-0133	....do	Michigan Consolidated Gas Co.	10-09-87	B		
ST88-0134	....do	Washington Gas Light Co., et al.	10-09-87	B		
ST88-0135	....do	Coastal States Gas Transmission Co	10-09-87	B		
ST88-0136	....do	Aurora Gas Company	10-09-87	B		
ST88-0137	....do	Central Illinois Light Co	10-09-87	B		
ST88-0138	Phillips Gas Pipeline Co	Phillips Natural Gas Co	10-09-87	B		
ST88-0139	Tennessee Gas Pipeline Co	Public Service Co. of N. Carolina	10-09-87	B		
ST88-0140	United Gas Pipe Line Co	Atlanta Gas Light Co	10-09-87	B		
ST88-0141	....do	Willmut Oil & Gas Co	10-09-87	B		
ST88-0142	....do	Washington Gas Light Co., et al.	10-09-87	B		
ST88-0143	....do	Wellhead Ventures Corp	10-09-87	B		
ST88-0144	....do	Bishop Pipeline Corp	10-09-87	B		
ST88-0145	....do	Houston Pipe Line Co	10-09-87	B		
ST88-0146	....do	Wellhead Ventures Corp	10-09-87	B		
ST88-0147	....do	Consolidated Ed. of NY, Inc., et al.	10-09-87	B		
ST88-0148	Sea Robin Pipeline Co	Louisiana Gas Marketing Co	10-09-87	B		
ST88-0149	....do	Louisiana State Gas Corp	10-09-87	B		
ST88-0150	....do	Endeavco Oil and Gas Co	10-09-87	B		
ST88-0151	....do	Willmut Oil & Gas Co	10-09-87	B		
ST88-0152	....do	Texas Southern Pipeline, Inc.	10-09-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0153	....do	North Central Public Service Co	10-09-87	B		
ST88-0154	....do	Louisiana State Gas Corp	10-09-87	B		
ST88-0155	....do	Louisiana Stete Gas Corp	10-09-87	B		
ST88-0156	....do	Willmut Oil & Gas Co	10-09-87	B		
ST88-0157	....do	Willmut Oil & Gas Co	10-09-87	B		
ST88-0158	....do	Mississippi Valley Gas Co	10-09-87	B		
ST88-0159	....do	Endevco Pipeline Co	10-09-87	B		
ST88-0160	....do	Gulf Coast Energy, Inc.	10-09-87	B		
ST88-0161	....do	Caddo Natural Gas Co	10-09-87	B		
ST88-0162	....do	Wintershall Pipeline Corp	10-09-87	B		
ST88-0163	....do	Coastal States Gas Transmission Co	10-09-87	B		
ST88-0164	....do	City of Bernie	10-09-87	B		
ST88-0165	Valero Transmission, L.P	Transcontinental Gas Pipe Line Corp	10-09-87	C		
ST88-0166	ANR Pipeline Co	Wisconsin Fuel and Light Co	10-13-87	B		
ST88-0167	....do	Southern Gas Co	10-13-87	B		
ST88-0168	....do	Michigan Gas Utilities Co	10-13-87	B		
ST88-0169	....do	Consumers Power Co	10-13-87	B		
ST88-0170	....do	Louisiana Resources Co	10-13-87	B		
ST88-0171	....do	Consumers Power Co	10-13-87	B		
ST88-0172	....do	Michigan Consolidated Gas Co	10-13-87	B		
ST88-0173	Blue Dolphin Pipe Line Co	Polo Energy Corp	10-13-87	B		
ST88-0174	Equitable Gas Co	Equitable Gas Co	10-13-87	B		
ST88-0175	Michigan Gas Storage Co	Southeastern Michigan Gas Co	10-13-87	B		
ST88-0176	Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	10-13-87	B		
ST88-0177	Natural Gas Pipeline Co of America	Southeastern Michigan Gas Co	10-13-87	B		
ST88-0178	Sea Robin Pipeline Co	Llano, Inc.	10-13-87	B		
ST88-0179	Transcontinental Gas Pipe Line Corp	Fort Hill Natural Gas Authority	10-13-87	B		
ST88-0180	....do	United Cities Gas Co	10-13-87	B		
ST88-0181	....do	Alabama Gas Corp	10-13-87	B		
ST88-0182	....do	Corpus Christi Industrial Pipeline Co	10-13-87	B		
ST88-0183	....do	Public Service Electric and Gas Co	10-13-87	B		
ST88-0184	....do	Long Island Lighting Co	10-13-87	B		
ST88-0185	....do	Corpus Christ Industrial Pipeline Co	10-13-87	B		
ST88-0186	....do	Piedmont Natural Gas Co	10-13-87	B		
ST88-0187	....do	Public Service Co of N. Carolina	10-13-87	B		
ST88-0188	....do	Atlanta Gas Light Co	10-13-87	B		
ST88-0189	....do	North Carolina Natural Gas Corp	10-13-87	B		
ST88-0190	....do	Brooklyn Union Gas Co	10-13-87	B		
ST88-0191	....do	Philadephia Electric Co	10-13-87	B		
ST88-0192	United Gas Pipe Line Co	South Carolina Pipeline, et al.	10-13-87	B		
ST88-0193	....do	Entex, Inc.	10-13-87	B		
ST88-0194	....do	Endevco Pipeline Co	10-13-87	B		
ST88-0195	....do	Columbia Gas of Ohio, Inc.	10-13-87	B		
ST88-0196	....do	FRM, Inc.	10-13-87	B		
ST88-0197	....do	Houston Pipe Line Co	10-13-87	B		
ST88-0198	....do	Tex-La Gas Co	10-13-87	B		
ST88-0199	....do	System Fuels, Inc.	10-13-87	B		
ST88-0200	....do	Willmut Oil & Gas Co	10-13-87	B		
ST88-0201	....do	Caddo Natural Gas Co	10-13-87	B		
ST88-0202	....do	Victoria Gas Corp	10-13-87	B		
ST88-0203	....do	Lgs Intrastate, Inc	10-13-87	B		
ST88-0204	....do	Prior Intrastate Corp	10-13-87	B		
ST88-0205	....do	Western Kentucky Gas Co	10-13-87	B		
ST88-0206	....do	Entex, Inc	10-13-87	B		
ST88-0207	....do	Public Service Co of N. Carolina, Et al	10-13-87	B		
ST88-0208	....do	City of Union, Et al	10-13-87	B		
ST88-0209	....do	Valero Transmission, L.P	10-13-87	B		
ST88-0210	....do	SMK Energy Corp	10-13-87	B		
ST88-0211	....do	South Carolina Pipeline, Et al	10-13-87	B		
ST88-0212	....do	Willmut Oil & Gas Co	10-13-87	B		
ST88-0213	Mountain Fuel Resources, Inc	Public Service Co of Colorado	10-14-87	B		
ST88-0214	Natural Gas Pipeline Co of America	Northern Indiana Public Service Co	10-14-87	B		
ST88-0215	Northern Natural Gas Co	Seagull Shoreline System	10-14-87	B		
ST88-0216	Panhandle Eastern Pipe Line Co	Central Illinois Light Co	10-14-87	B		
ST88-0217	....do	....do	10-14-87	B		
ST88-0218	Tennessee Gas Pipeline Co	Texas Ohio Gas, Inc	10-14-87	G-S		
ST88-0219	Trunkline Gas Co	Consumers Power Co	10-14-87	B		
ST88-0220	....do	....do	10-14-87	B		
ST88-0221	....do	....do	10-14-87	B		
ST88-0222	Tennessee Gas Pipeline Co	Pargon Gas Corp	10-14-87	G-S		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0223	Arkla Energy Resources	Jackson Utility Division	10-15-87	B		
ST88-0224	El Paso Natural Gas Co	Pacific Gas and Electric Co	10-15-87	B		
ST88-0225	do	do	10-15-87	B		
ST88-0226	Mountain Fuel Resources, Inc	Quivira Gas Co	10-15-87	B		
ST88-0227	Panhandle Eastern Pipe Line Co	Virginia Natural Gas Co	10-15-87	B		
ST88-0228	do	Llano, Inc	10-15-87	B		
ST88-0229	do	Columbia Gas of Ky, Inc., Et al	10-15-87	B		
ST88-0230	Sea Robin Pipeline Co	Long Island Lighting Co., Et al	10-15-87	B		
ST88-0231	Trunkline Gas Co	Consumers Power Co	10-15-87	B		
ST88-0232	do	Consumers Power Co	10-15-87	B		
ST88-0233	United Gas Pipe Line Co	Bishop Pipeline Corp	10-15-87	B		
ST88-0234	do	Enmark Gas Corp	10-15-87	B		
ST88-0235	do	City of Bay Springs	10-15-87	B		
ST88-0236	do	Enmark Gas Corp	10-15-87	B		
ST88-0237	do	Eastex Gas Transmission Co., Et al	10-15-87	B		
ST88-0238	do	Endevco Pipeline Co	10-15-87	B		
ST88-0239	do	City of Milton	10-15-87	B		
ST88-0240	do	Washington Gas Light Co	10-15-87	B		
ST88-0241	Valero Transmission, L.P	United Gas Pipe Line Co	10-15-87	C		
ST88-0242	Colorado Interstate Gas Co	Southern California Gas Co	10-15-87	B		
ST88-0243	Arkla Energy Resources	City of Bernie	10-16-87	B		
ST88-0244	do	City of Kennett	10-16-87	B		
ST88-0245	do	Virginia Natural Gas Co	10-16-87	B		
ST88-0246	do	City of Jonesboro	10-16-87	B		
ST88-0247	Mountain Fuel Resources, Inc	Mountain Fuel Supply Co	10-16-87	B		
ST88-0248	Northern Natural Gas Co	Valero Transmission, L.P	10-16-87	B		
ST88-0249	do	Westar Transmission Co	10-16-87	B		
ST88-0250	do	Wisconsin Natural Gas Co	10-16-87	B		
ST88-0251	do	Wisconsin Power and Light Co	10-16-87	B		
ST88-0252	ONG Transmission Co	Natural Gas Pipeline Co. of America	10-16-87	C	03-14-88	24.32
ST88-0253	Panhandle Eastern Pipe Line Co	Richmond Gas Corp	10-16-87	B		
ST88-0254	do	Consumers Power Co	10-16-87	B		
ST88-0255	do	Central Illinois Light Co	10-16-87	B		
ST88-0256	do	do	10-16-87	B		
ST88-0257	Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	10-16-87	B		
ST88-0258	do	Virginia Natural Gas Co	10-16-87	B		
ST88-0259	do	Lynchburg Gas Co	10-16-87	B		
ST88-0260	do	North Carolina Natural Gas Corp	10-16-87	B		
ST88-0261	do	The Pipeline Co	10-16-87	B		
ST88-0262	do	New Jersey Natural Gas Co	10-16-87	B		
ST88-0263	do	Louisiana Natural Gas Pipeline, Inc	10-16-87	B		
ST88-0264	do	Commonwealth Gas Pipeline Corp	10-16-87	B		
ST88-0265	do	City of Shelby	10-16-87	B		
ST88-0266	do	Mississippi Fuel Co	10-16-87	B		
ST88-0267	do	Atlanta Gas Light Co	10-16-87	B		
ST88-0268	do	Public Service Co. of N. Carolina	10-16-87	B		
ST88-0269	do	CSX Intrastate Gas Co	10-16-87	B		
ST88-0270	do	Corpus Christi Industrial Pipeline Co	10-16-87	B		
ST88-0271	do	City of Lexington	10-16-87	B		
ST88-0272	do	Consolidated Edision Co. of NY, Inc	10-16-87	B		
ST88-0273	do	PSNC Production Corp	10-16-87	B		
ST88-0274	do	Clinton Newberry Nat. Gas Authority	10-16-87	B		
ST88-0275	do	Baltimore Gas and Electric Co	10-16-87	B		
ST88-0276	do	North Carolina Natural Gas Corp	10-16-87	B		
ST88-0277	do	Elizabethtown Gas Co	10-16-87	B		
ST88-0278	do	Pennsylvania Gas and Water Co	10-16-87	B		
ST88-0279	do	Consolidated Edison Co. of NY, Inc	10-16-87	B		
ST88-0280	do	Public Service Electric and Gas Co	10-16-87	B		
ST88-0281	Transok, Inc	Panhandle Eastern Pipeline Co	10-16-87	C	03-14-88	26.25
ST88-0282	Tennessee Gas Pipeline Co	Valley Gas Co	10-16-87	B		
ST88-0283	do	Tennessee Valley Authority	10-16-87	G-S		
ST88-0284	do	Rochester Gas & Electric Corp	10-16-87	B		
ST88-0285	United Gas Pipe Line Co	Varibus Corp	10-16-87	B		
ST88-0286	Apollo Gas Co	South Jersey Gas Co	10-19-87	D		
ST88-0287	Colorado Interstate Gas Co	Quivira Gas Co	10-19-87	B		
ST88-0288	do	Miami Pipeline Co	10-19-87	B		
ST88-0289	Tennessee Gas Pipeline Co	Fitchburg Gas & Electric Light Co	10-19-87	B		
ST88-0290	do	East Tennessee Natural Gas Co	10-19-87	G		
ST88-0291	do	do	10-19-87	G		
ST88-0292	do	Colonial Gas Company	10-19-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0293	....do	Cranberry Pipeline Corp	10-19-87	B		
ST88-0294	....do	CSX Intrastate Gas Co	10-19-87	B		
ST88-0295	....do	Llano, Inc	10-19-87	B		
ST88-0296	....do	Panhandle Eastern Pipe Line Co	10-19-87	G		
ST88-0297	....do	Energy North, Inc	10-19-87	B		
ST88-0298	....do	Quivira Gas Co	10-19-87	B		
ST88-0299	....do	Fitchburg Gas & Electric Light Co	10-19-87	B		
ST88-0300	....do	Commonwealth Gas Co	10-19-87	B		
ST88-0301	....do	Public Service Electric and Gas Co	10-19-87	B		
ST88-0302	....do	Yankee Pipeline Co	10-19-87	B		
ST88-0303	....do	Arkansas Louisiana Gas Co	10-19-87	B		
ST88-0304	....do	Brooklyn Union Gas Co	10-19-87	B		
ST88-0305	....do	Southern Connecticut Gas Co	10-19-87	B		
ST88-0306	....do	Union Electric Co	10-19-87	B		
ST88-0307	....do	Public Service Electric and Gas Co	10-19-87	B		
ST88-0308	Trunkline Gas Co	Yankee Pipeline Co	10-19-87	B		
ST88-0309	....do	Consumers Power Co	10-19-87	B		
ST88-0310	Delhi Gas Pipeline Corp	Trunkline Gas Co	10-20-87	C		
ST88-0311	El Paso Natural Gas Co	Pacific Gas and Electric Co	10-20-87	B		
ST88-0312	Tennessee Gas Pipeline Co	Houston Pipe Line Co	10-20-87	B		
ST88-0313	....do	Quivira Gas Co	10-20-87	B		
ST88-0314	....do	Natural Gas Clearinghouse, Inc	10-20-87	G-S		
ST88-0315	Texas Eastern Transmission Corp	Bay State Gas Co., Et Al	10-20-87	B		
ST88-0316	Tennessee Gas Pipeline Co	Natural Gas Pipeline Co. of America	10-21-87	G		
ST88-0317	....do	Amalgamated Pipeline Co	10-21-87	B		
ST88-0318	....do	Brooklyn Union Gas Co	10-21-87	B		
ST88-0319	....do	Amalgamated Pipeline Co	10-21-87	B		
ST88-0320	....do	Columbia Gas Transmission Corp	10-21-87	G		
ST88-0321	....do	City of Richmond	10-21-87	B		
ST88-0322	....do	Park-Ohio Energy, Inc	10-21-87	G—S		
ST88-0323	....do	Dayton Power and Light Co	10-21-87	B		
ST88-0324	Trunkline Gas Co	Consumers Power Co	10-21-87	B		
ST88-0325	Tennessee Gas Pipeline Co	Philadelphia Gas Works, Et Al	10-21-87	B		
ST88-0326	....do	Yankee Pipeline Co	10-22-87	B		
ST88-0327	....do	Baltimore Gas & Electric Co., Et Al	10-22-87	B		
ST88-0328	Equitable Gas Co	Equitable Gas Co	10-22-87	B		
ST88-0329	Tennessee Gas Pipeline Co	CSX Oil and Gas Corp	10-22-87	G-S		
ST88-0330	....do	NGC Intrastate Pipeline Co	10-22-87	B		
ST88-0331	United Gas Pipe Line Co	Liquid Energy Corp	10-22-87	B		
ST88-0332	....do	Wintershall Pipeline Corp	10-22-87	B		
ST88-0333	....do	Tex-La Gas Co	10-22-87	B		
ST88-0334	....do	Peoples Gas Light and Coke Co., Et Al	10-22-87	B		
ST88-0335	Williams Natural Gas Co	Edwards and Leach Oil Co	10-22-87	G-S		
ST88-0336	Algonquin Gas Transmission Co	Bay State Gas Co	10-23-87	B		
ST88-0337	Algonquin Gas Transmission Co	Commonwealth Gas Co	10-23-87	B		
ST88-0338	El Paso Natural Gas Co	Enmark Gas Corp	10-23-87	B		
ST88-0339	....do	Southwest Gas Corp	10-23-87	B		
ST88-0340	....do	Sunshine Energy Co	10-23-87	B		
ST88-0341	....do	Southern California Gas Co	10-23-87	B		
ST88-0342	....do	Pacific Gas and Electric Co	10-23-87	B		
ST88-0343	Panhandle Eastern Pipe Line Co	Consumers Power Co	10-23-87	B		
ST88-0344	Tennessee Gas Pipeline Co	Brooklyn Union Gas Co., Et al	10-23-87	B		
ST88-0345	....do	Connecticut Light & Power Co	10-23-87	B		
ST88-0346	....do	Bay State Gas Co	10-23-87	B		
ST88-0347	....do	Pennsylvania Gas and Water Co	10-23-87	B		
ST88-0348	....do	Southern Connecticut Gas Co	10-23-87	B		
ST88-0349	Equitable Gas Co	Equitable Gas Co	10-26-87	B		
ST88-0350	Gas Gathering Corp	Energy Development Corp	10-26-87	G-S		
ST88-0351	Panhandle Eastern Pipe Line Co.	Victoria Gas Corp	10-26-87	B		
ST88-0352	Sea Robin Pipeline Co	Texline Gas Co	10-26-87	B		
ST88-0353	....do	Pennsylvania Gas and Water Co	10-26-87	B		
ST88-0354	Stauffer Wyoming Pipline Co	Colorado Interstate Gas Co	10-26-87	C	03-24-88	14.00
ST88-0355	Tennessee Gas Pipeline Co	Consolidated Edison Co of NY, Inc	10-26-87	B		
ST88-0356	Trunkline Gas Co	Peoples Natural Gas Co	10-26-87	B		
ST88-0357	Valero Transmission, L.P.	Northern Natural Gas Co	10-26-87	C		
ST88-0358	Colorado Interstate Gas Co	Quivira Gas Co	10-26-87	B		
ST88-0359	....do	MGTC, Inc	10-26-87	B		
ST88-0360	....do	Public Service Co of Colorado	10-26-87	B		
ST88-0361	Consolidated Gas Transmission Corp.	Public Service Electric and Gas Co	10-26-87	B		
ST88-0362	....do	Brooklyn Union Gas Co	10-26-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0363	....do	Long Island Lighting Co	10-26-87	B		
ST88-0364	El Paso Natural Gas Co	Southern California Gas Co	10-27-87	B		
ST88-0365	Tennessee Gas Pipeline Co	Amalgamated Pipeline Co	10-27-87	B		
ST88-0366	....do	Iowa Southern Utilities Co., Et al	10-27-87	B		
ST88-0367	....do	Peoples Natural Gas Co., Et al	10-28-87	B		
ST88-0368	....do	Columbia Gas of Ohio, Inc	10-28-87	B		
ST88-0369	....do	Victoria Gas Corp	10-28-87	B		
ST88-0370	Texas Gas Transmission Corp	Memphis Light, Gas and Water Division.	10-28-87	B		
ST88-0371	....do	City of Hamilton	10-28-87	B		
ST88-0372	United Gas Pipe Line Co	Bershire Gas Co., Et al	10-28-87	B		
ST88-0373	ANR Pipeline Co	Michigan Gas Co	10-28-87	B		
ST88-0374	....do	Lear Gas Transmission Co	10-28-87	B		
ST88-0375	....do	Columbia Gas of Pennsylvania, Inc	10-28-87	B		
ST88-0376	....do	Wisconsin Power and Light Co	10-28-87	B		
ST88-0377	....do	Yankee Pipeline Co	10-28-87	B		
ST88-0378	....do	Wisconsin Public Service Co	10-28-87	B		
ST88-0379	....do	Michigan Gas Co	10-28-87	B		
ST88-0380	....do	Wisconsin Public Service Co	10-28-87	B		
ST88-0381	....do	Wisconsin Gas Co	10-28-87	B		
ST88-0382	....do	Northern Indiana Fuel & Light Co	10-28-87	B		
ST88-0383	Arkla Energy Resources	City of Harrisburg	10-28-87	B		
ST88-0384	....do	City of Hamilton	10-28-87	B		
ST88-0385	....do	Illinois Power Co	10-28-87	B		
ST88-0386	....do	Western Kentucky Gas Co	10-28-87	B		
ST88-0387	....do	Illinois Gas Co	10-28-87	B		
ST88-0388	....do	City of Elizabethtown	10-28-87	B		
ST88-0389	....do	Arkansas Louisiana Gas Co	10-28-87	B		
ST88-0390	Texas Eastern Transmission Corp	UGI Corp	10-28-87	B		
ST88-0391	....do	City of Lebanon	10-28-87	B		
ST88-0392	....do	Boston Gas Co	10-28-87	B		
ST88-0393	....do	Harrisburg Water and Gas Division	10-28-87	B		
ST88-0394	....do	Long Island Lighting Co	10-28-87	B		
ST88-0395	....do	City of Huntingburg	10-28-87	B		
ST88-0396	....do	Chambersburg Gas Dept., Chambersburg.	10-28-87	B		
ST88-0397	....do	Philadelphia Electric Co	10-28-87	B		
ST88-0398	Trunkline Gas Co	Consumers Power Co	10-28-87	B		
ST88-0399	....do	....do	10-28-87	B		
ST88-0400	....do	....do	10-28-87	B		
ST88-0401	....do	....do	10-28-87	B		
ST88-0402	....do	....do	10-28-87	B		
ST88-0403	El Pasco Natural Gas Co	Southwest Gas Corp	10-29-87	B		
ST88-0404	....do	Gas Marketing, Inc	10-29-87	B		
ST88-0405	Gas Gathering Corp	Delta Pipeline Co	10-29-87	G-S		
ST88-0406	ANR Pipeline Co	Wisconsin Natural Gas Co	10-29-87	B		
ST88-0407	....do	Consumers Power Co	10-29-87	B		
ST88-0408	....do	Michigan Gas Utilities Co	10-29-87	B		
ST88-0409	....do	Wisconsin Natural Gas Co	10-29-87	B		
ST88-0410	....do	Northern Indiana Public Service Co	10-29-87	B		
ST88-0411	....do	Wisconsin Power and Light Co	10-29-87	B		
ST88-0412	....do	Michigah Gas Co	10-29-87	B		
ST88-0413	....do	Madison Gas & Electric Co	10-29-87	B		
ST88-0414	....do	Northern Indiana Public Service Co	10-29-87	B		
ST88-0415	....do	Michigan Consolidated Gas Co	10-29-87	B		
ST88-0416	Louisiana Resources Co	LGS Intrastate, Inc	10-29-87	C	03-27-88	26.43
ST88-0417	Panhandle Eastern Pipe Line co	V.H.C. Pipeline Co	10-29-87	B		
ST88-0418	Tennessee Gas Pipeline Co	Yankee Pipeline Co	10-29-87	B		
ST88-0419	....do	Consolidated Edison Co. of NY, Inc	10-29-87	B		
ST88-0420	....do	....do	10-29-87	B		
ST88-0421	....do	Gulf Fuels, Inc	10-29-87	B		
ST88-0422	Trunkline Gas Co	Consumers Power Co	10-29-87	B		
ST88-0423	....do	....do	10-29-87	B		
ST88-0424	....do	....do	10-29-87	B		
ST88-0425	....do	Northern Indiana Public Service Co	10-29-87	B		
ST88-0426	Caprock Pipeline Co	Westar Transmission Co	10-30-87	B		
ST88-0427	Monterey Pipeline Co	Southern Natural Gas Co	10-30-87	C	03-28-88	24.40
ST88-0428	Natural Gas Pipeline Co. of America	Wellhead Ventures Corp	10-30-87	B		
ST88-0429	....do	Northern Illinois Gas Co	10-30-87	B		
ST88-0430	....do	Spindletop Gas Distribution System	10-30-87	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST88-0431	....do	Northern Illinois Gas Co	10-30-87	B		
ST88-0432	....do	Pontchartrain Natural Gas System	10-30-87	B		
ST88-0433	....do	Southern California Gas Co	10-30-87	B		
ST88-0434	....do	Northern Illinois Gas Co	10-30-87	B		
ST88-0435	Texas Gas Transmission Corp	Claysville Natural Gas Company	10-30-87	B		
ST88-0436	....do	Louisville Gas & Electric Co	10-30-87	B		
ST88-0437	....do	Western Kentucky Gas Co	10-30-87	B		
ST88-0438	....do	....do	10-30-87	B		
ST88-0439	....do	Indiana Gas Co., Inc	10-30-87	B		
ST88-0440	....do	Louisville Gas & Electric Co	10-30-87	B		
ST88-0441	....do	Western Kentucky Gas Co	10-30-87	B		
ST88-0442	Transwestern Pipeline Co	Coastal States Gas Transmission Co	10-30-87	B		
ST88-0443	Valero Transmission, L.P	Trunkline Gas Co	10-30-87	C		
ST88-0444	....do	Transwestern Pipeline Co	10-30-87	C		
ST88-0445	Westar Transmission Co	El Paso Natural Gas Co	10-30-87	C		
ST88-0446	Winnie Pipeline Co	Natural Gas Pipeline Co. of America	10-30-87	C		
ST88-0447	ANR Pipline Co	Ohio Gas Co	10-30-87	B		
ST88-0448	....do	Michigan Gas Utilities Co	10-30-87	B		
ST88-0449	....do	Wisconsin Public Service Co	10-30-87	B		
ST88-0450	....do	Columbia Gas of Ohio, Inc	10-30-87	B		
ST88-0451	....do	Ohio Gas Co	10-30-87	B		
ST88-0452	....do	Northern Illinois Gas Co	10-30-87	B		
ST88-0453	....do	Consumers Power Co	10-30-87	B		
ST88-0454	....do	Wisconsin Gas Co	10-30-87	B		
ST88-0455	Northern Natural Gas Co	Circle-Hutch Utility Board	10-30-87	B		
ST88-0456	....do	Northern States Power Co	10-30-87	B		
ST88-0457	....do	Northern Illinois Gas Co	10-30-87	B		
ST88-0458	....do	Seagull Shoreline System	10-30-87	B		
ST88-0459	....do	Northern States Power Co	10-30-87	B		
ST88-0460	....do	Metropolitan Utils. Dist. of Omaha	10-30-87	B		
ST88-0461	....do	Wisconsin Southern Gas Co., Inc	10-30-87	B		
ST88-0462	....do	Minnegasco, Inc., Et al	10-30-87	B		
ST88-0463	....do	Rock Rapids Municipal Utilities	10-30-87	B		

[1] Notice of transactions does not constitute a determination that comply with commission regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The Intrastate Pipeline has sought commission approval of its transportation rate pursuant to section 284.125(B)(2) of the commission's regulations (18 CFR 284.125(B)(2)). Such rates are deemed fair and equitable if the commission does not take action by the date indicated.

[Docket No. ER88-144-000]

Boston Edison Co.; Filing

December 21, 1987

Take notice that on December 17, 1987, Boston Edison Company (Edison) tendered for filing supplemental Exhibits A to a Service Agreement for Braintree Electric Light Department (Braintree), Hingham Municipal Light Department (Hingham), Hull Municipal Light Department (Hull) and Reading Municipal Light Department (Reading) under its FERC Electric Tariff, Original Volume No. III, Non-Firm Transmission Service (Tariff). The Exhibits A specify the amount and duration of transmission service required by Braintree, Hingham, Hull and Reading under the Tariff.

Edison requests waiver of the Commission's notice requirements to permit the Exhibits A to become effective as of the commencement date of the transaction to which they relate, November 1, 1987.

Edison states that it has served the filing on Braintree, Hingham, Hull, Reading and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29575 Filed 12-24-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-143-000]

Boston Edison Co.; Filing

December 21, 1987.

Take notice that on December 17, 1987, Boston Edison Company (Edison) tendered for filing a supplemental Exhibits A to a Service Agreement for Braintree Electric Light Department (Braintree), under its FERC Electric Tariff, Original Volume No. III, Non-Firm Transmission Service (Tariff). The Exhibit A specifies the amount and duration of transmission service required by Braintree under the Tariff.

Edison requests waiver of the Commission's notice requirements to permit the Exhibit A to become effective as of the commencement date of the transaction to which it relates, March 10, 1986.

Edison states that it has served the filing on Braintree and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29576 Filed 12-24-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2324-000]

Richard D. Hill; Filing

December 21, 1987.

Take notice that on December 17, 1987, Richard D. Hill filed an application pursuant to section 305(b) of the Federal Power Act for Commission authorization to hold concurrently the following positions:

Position	Name of corporation	Classification
Director	Boston Edison Company.	Public Utility
Director	John Hancock Mutual Life Insurance Company.	Mutual Life Insurance Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29577 Filed 12-24-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER88-142-000]

Michigan Power Co.; Filing

December 21, 1987.

Take notice that on December 17, 1987, Michigan Power Company (Michigan Power) tendered for filing proposed changes in its electric resale rate schedules presently on file with the Commission which are applicable to the City of Dowagiac, Michigan and the Village of Paw Paw, Michigan. The proposed change in resale rates will decrease Michigan Power's annual revenues from the City of Dowagiac by $24,998 and from the Village of Paw Paw by $27,723 based on the twelve month period ended December 31, 1986. These reductions are in addition to the Tax Reform Act of 1986-related rate reductions accepted for filing by the Commission in docket No. ER88-66-000. The purpose of the present rate change filing is to pass through to the City of Dowagiac and the Village of Paw Paw a reduction, proposed by Indiana Michigan Power Company in Docket No. ER88-30-000, in the wholesale electric rates paid by Michigan Power to Indiana Michigan Power Company.

Michigan Power requests that this rate change be made effective as of December 22, 1987.

Copies of the filing were served upon the City of Dowagiac, the Village of Paw Paw and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29578 Filed 12-24-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-15-000]

Mid Louisiana Gas Co.; Compliance Filing

December 21, 1987.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on Dec. 17, 1987, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective November 1, 1987:

First Revised Sheet No. 26j

Mid Louisiana states that the purpose of this filing is to state Mid Louisiana's intent not to recover any annual charges recorded in FERC Account No. 928 in a section 4 Rate Case.

Copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 29, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29579 Filed 12-24-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-102-000 et al.]

Williams Natural Gas Co. et al.; Natural Gas Certificate Filings

December 22, 1987.

Take notice that the following filigs have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP88-102-000]

Take notice that on December 2, 1987, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74102, filed in Docket No. CP88-102-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by reclaim, sale, and in place the Chase Central, Braman and Peckham compressor stations in

Kay County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, WNG states that it seeks to abandon by reclaim the 250 horsepower Chase Central compressor station and appurtenant facilities, to abandon by sale to Chase Gathering Systems, Inc. (Chase Gathering) the underground piping and appurtenant facilities at the Braman compressor station, and to abandon in place the underground piping and appurtenant facilities at the Peckman compressor station. WNG explains that the 600 horsepower units at Braman and Peckham are rental units and will be returned Halliburton Resources, Inc. WNG also states that the total reclaim costs are estimated to be $34,270 with an estimated salvage value of $37,810 and a sales price of $75,000.

WNG has notified Chase Gathering that it is no longer economic for WNG to continue to compress the gas, and therefore Chase Gathering has agreed to compress the gas for deliver hereunder, contingent upon WNG receiving abandonment approval from the Commission, it is asserted.

WNG concludes that this abandonment would cause no change in flow of or decrease in gas deliveries.

Comment Date: January 12, 1988, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company; a Division of Tenneco Inc.

[Docket No. CP88–121–000]

Take notice that on December 9, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88–121–000 pursuant to § 284.223 of the Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) for authorization to provide a transportation service for Tenngasco Corporation (TGC) for King Oil & Gas Company, under the blanket certificate issued in Docket No. CP87–115–000, pursuant to section 7 of the NGA, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated October 18, 1987, it proposes to transport natural gas for TGC, as agent for King Oil & Gas Company, from various points of receipt located offshore Texas, offshore Louisiana, and the states of Texas, Louisiana, Mississippi, Ohio, New Jersey, New York, Massachusetts, Pennsylvania, Alabama, West Virginia, Connecticut, Kentucky and Arkansas. The delivery point is located at Tennessee Meter No. 16247, Markham, Matagorda County, Texas, located at an interconnection between Tennessee and National Fuel Gas Distribution Corporation (NFGD), the downstream transporter. The ultimate consumers of the gas are various endusers off of NFGD's system, it is stated.

Tennessee further states that the peak day quantities would be 200,000 dekatherms (dt), the average daily quantities would be 1,830 dt, and that the annual quantities would be 667,950 dt. Service under § 284.223(a) commenced November 2, 1987, as reported in Docket No. ST88–925 (filed November 25, 1987).

Comment Date: February 5, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Mississippi River Transmission Corporation

[Docket No. CP88–124–000]

Take notice that on December 9, 1987, Mississippi River Transportation Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP88–124–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the purchase of gas from United Gas Pipe Line Company (United), all as more fully set forth in the application, which is on file and open to public inspection.

MRT states that it and United are parties to a service agreement that expires by its own terms on November 1, 1988. It is further stated that such agreement was executed on February 18, 1986 as the result of a settlement and Commission order approving the settlement in Docket No. RP84–87–000. The settlement order, it is indicated, authorized United to provide sales serve to MRT with a maximum daily quantity (MDQ) of 524,000 Mcf per day. MRT notes that the 1986 service agreement expires on November 1, 1988, and contains no provision for an extension beyond that date.

MRT asserts that the combination of declining demand for its gas along with the relatively high price of United's gas as compared to other available sources of supply represent compelling arguments for authorizing the proposed abandonment of service. MRT further asserts that any continuation of the service obligations of the 1986 agreement beyond the term of the agreement would only inhibit MRT's ability to service its market requirements competitively and subject MRT and its customers to excessive demand charges based on volumes that far exceed MRT's market requirements.

Comment Date: January 12, 1988, in accordance with Standard Paragraph F at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP88–106–000]

Take notice that on December 4, 1987, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88–106–000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving partial abandonment of certain sales services to Philadelphia Electric Company (PECo), all as more fully set forth in the application which is on file and open to public inspection.

Transco states that it entered into a service agreement with PECo dated November 13, 1970, which provided for the sale for resale of a maximum daily quantity of 149,061 Mcf of natural gas per day under Transco's Rate Schedule CD–3. It is indicated that the Commission authorized such service to PECo by various orders issued over a period of many years, the most recent of which was issued July 20, 1970, in Docket No. CP70–193.

Transco asserts that on August 11, 1986, PECo notified Transco of its desire to convert, pursuant to § 284.10 of the Commission's Regulations, 15 percent of its firm sales service to firm transportation under Transco's Rate Schedule FT. It is explained that by order issued February 20, 1987, in Docket No. CP87–37–000, the Commission required Transco to allow such conversion effective November 7, 1986. Transco states that it commenced such firm transportation service for PECo pursuant to such order on August 4, 1987. In the subject application Transco requests authority effective retroactive to November 7, 1986, to partially abandon PECo's current Rate Schedule CD–3 entitlement of 149,061 Mcf per day by a quantity of 22,359 Mcf per day, resulting in a revised Rate Schedule CD–3 contract demand quantity of 126,702 Mcf per day for PECo. The proposed contract demand reduction, it is noted, is consistent with the Commission's February 20, 1987, order mandating the conversion requested by PECo.

Comment Date: January 12, 1988, in accordance with Standard Paragraph F at the end of this notice.

5. Williams Natural Gas Company

[Docket No. CP88-107-000]

Take notice that on December 4, 1987, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP88-107-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate an additional delivery point in Newton County, Missouri, for the sale and delivery of gas to the Kansas Power and Light Company (KPL Gas Service) under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that KPL Gas Service has requested this additional delivery point as an additional town border meter site to serve new residential and small commercial customers around the Missouri Highway 43 and Interstate 44 interchange southwest of Joplin, Missouri. The projected volume of delivery through these facilities is 2,822 Mcf per year with a maximum peak load of 135 Mcf per day (Mcfd) for the first year increasing to 21,500 Mcf per year with a maximum peak load of 310 Mcfd by the fifth year, it is stated. Total quantities to be delivered to KPL Gas Service under its F, C, and I Rate Schedules would not exceed the total quantities authorized prior to the request, it is stated. It is further stated that the estimated cost of construction is $16,070 to be paid from treasury cash.

WNG states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified without determent or disadvantage to its other customers.

Comment Date: February 5, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. Williston Basin Interstate Pipeline Company

[Docket No. CP88-114-000]

Take notice that on December 8, 1987, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismark, North Dakota 58501, filed in Docket No. CP88-114-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) for the authority to construct and operate a new delivery tap, meter and regulator facilities for the delivery of gas to Montana-Dakota Utilities Co. (Montana-Dakota), an existing distributor customer of Williston Basin, under Williston Basin's blanket certificate issued in Docket No. CP82-487-000, *et al.*, (30 FERC ¶61,143 (1985)), pursuant to section 7(c) of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin proposes to construct and operate a new pipeline tap, meter station and related facilities for the delivery of up to 3,300 Mcf of gas per day, for the account of Cenex Agri-Fuels Co. (Cenex), to Montana-Dakota. Williston Basin states that it transports the gas, which is purchased by Cenex for the manufacture of fertilizer in its Pembina County, North Dakota, plant, under its Rate Schedules S-2 and T-3, pursuant to Commission order issued May 25, 1984, in Docket No. CP83-254-000, *et al.* It is stated that the cost constructing the facilities, estimated at $84,000, will be reimbursed by Montana-Dakota.

Comment Date: February 5, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-29658 Filed 12-24-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3306-8]

Agency Information Collection Activities Under the Office of Management and Budget Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382-2740 (FTS 382-2740).

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: 1987 Hazardous Waste Biennial Reporting System: Pilot. (EPA ICR #0976).

Abstract: EPA is requesting OMB clearance to pilot proposed changes to the reporting forms in 15 to 20 volunteering states during the 1987 reporting cycle. Public comment on proposed data items targetted for reporting, as well as on the reporting forms themselves, will be accepted throughout the reporting period, and will be evaluated in preparing formal regulatory proposals during the coming year. Approval for full implementation of the revised reporting system during the 1989 reporting cycle will be requested before the expiration of today's requested pilot cycle approval.

Respondents: States and owners and operators of hazardous waste generators (for full implementation).

Estimated Burden: 155,000 hours on annual basis (for full implementation).

Frequency of Collection: Biennial (for full implementation).

Comments on the abstracts on this notice may be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Office of Standard and Regulation (PM–223), Information and Regulatory Systems Division, 401 M Street., SW., Washington, DC 20460

and

Marcus Peacock, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, (Room 3010), 726 Jackson Place NW., Washington, DC 20503.

Date: December 18, 1987.

Daniel Fiorino,

Director, Information Regulatory Systems Division.

[FR Doc. 87–29615 Filed 12–24–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3306–9]

Agency Information Collection Activities Under the Office of Management and Budget Review

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Carla Levesque at EPA, (202) 382–2740 (FTS 382–2740).

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Census of Pesticide Manufacturers. (EPA ICR #1028).

Abstract: EPA is surveying pesticide manufacturers on production, wastewater generation and treatment, and financial data. The information will be used to develop effluent limitation and pretreatment regulations.

Respondents: Manufacturers of pesticide active ingredients.

Estimated Burden: 19,200 hours.

Frequency of Collection: One time.

Title: Pretreatment Program Information Requirements. (EPA ICR #0002).

EPA is requesting renewal of existing requirements; no changes are proposed in this ICR.

Abstract: Industrial users of publicly owned treatment works (POTWS) must monitor their discharges, maintain records, and report to the POTW, State agency or EPA on compliance with applicable standards. POTWS may apply to State/EPA for pretreatment enforcement and removal credit authority. Approved POTWs must retain monitoring records.

Respondents: Businesses and other facilities discharging wastewater to POTWs; State and local governments.

Estimated Annual Burden: 1,046,548 hours

Frequency of Collection: Semi-annually; annually; and on occasion (varies according to the specific requirements).

Comments on the abstracts on this notice may be sent to:

Carla Levesque, U.S. Environmental Protection Agency, Office of Standard and Regulation (PM–223), Information and Regulatory Systems Division, 401 M Street., SW., Washington, DC 20460.

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3019), 726 Jackson Place NW., Washington, DC 20503.

Daniel Fiorino,

Director, Information Regulatory Systems Division.

[FR Doc. 87–29616 Filed 12–24–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

December 16, 1987.

The Federal Communications Commission has submitted the following information collection requirements to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Copies of the submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Terry Johnson, Federal Communications Commission, (202) 634–1535. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0316.

Title: Section 76.305, Records to be maintained locally by cable system operators for public inspection.

Action: Extension.

Respondents: Businesses (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 3,816 Recordkeepers; 49,608 Hours.

Needs and Uses: Cable television systems having 1,000 or more subscribers are required to maintain a public inspection file containing certain records. The information is used by Commission staff in field investigations or inspections and by the public to assess a cable system's performance and to ensure compliance with Commission rules and regulations.

OMB Number: 3060–0181.

Title: Section 73.1615, Operation during modification of facilities.

Action: Revision.

Respondents: Businesses (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 200 Responses; 100 Hours.

Needs and Uses: Licensees of AM, FM, or TV stations are required to notify the Commission or request authority when discontinuing operation or operating with temporary facilities. The information is used by Commission staff to maintain technical records and to ensure that interference is not caused to other stations.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-29604 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

December 17, 1987.

The Federal Communications Commission has submitted the following information collection requirements to the OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of the submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Terry Johnson, Federal Communications Commission, (202) 634-7535. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0016.

Title: Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station.

Form Number: FCC 346.

Action: Revision.

Respondents: Individuals or households, state or local governments and businesses (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 2,110 Responses; 59,080 Hours.

Needs and Uses: FCC Form 346 is used by licensees/permittees/applicants when applying for authority to construct or make changes in a low power television, TV translator or TV booster broadcast station. The data will be used by FCC staff to determine whether applicants meet the basic statutory requirements and if proposal will cause interference to other authorized broadcast stations.

OMB Number: 3060-0017.

Title: Application for a Low Power TV, TV Translator or TV Booster Station License.

Form Number: FCC 347.

Action: Revision.

Respondents: Individuals or households, state or local governments and businesses (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 252 Responses; 567 Hours.

Needs and Uses: FCC Form 347 is used by permittees of low power television, TV translator or TV booster stations to apply for a station license. The data is used by FCC staff to confirm that station is built to terms specified in outstanding construction permit. Data is then extracted from FCC 347 for inclusion in the subsequent license to operate the station.

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 87-29605 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

December 18, 1987.

The Federal Communications Commission has submitted the following information collection requirment to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Terry Johnson, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0057.

Title: Application for Equipment Authorization.

Form Number: FCC 731.

Action: Extension.

Respondents: Businesses (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 9,700 Responses; 232800 Hours.

Needs and Uses: A completed FCC 731 application form, combined with descriptive information, test data, and occasionally a test sample, provides information to determine compliance of the subject equipment to the FCC Rules, thereby controlling interference to radio communications. The data may also be used to aid in enforcement of the FCC Rules.

Federal Commuications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-29606 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

December 21, 1987.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions, may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Terry Johnson, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: None.

Title: Application for Authority to Construct of Make Changes in an FM Translator or FM Booster Station.

Form Number: FCC 349.

Action: Existing collectin in use without an OMB control number.

Respondents: Businesses (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 420 Responses; 10,500 Hours.

Needs and Uses: FCC Form 349 is used to apply for authority to construct a new FM translator or FM booster broadcast station, or to make changes in existing facilities. The date will be used by FCC staff to ensure that the applicant meets the basic statutory requirements and will not cause interference to other licensed broadcast services.

OMB Number: None.

Title: Application for an FM

Translator or FM Booster Station License.

Form Number: FCC 350.

Action: Existing collection in use without an OMB control number.

Respondents: Busineses (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 250 Responses; 563 Hours.

Needs and Uses: FCC Form 350 is required to be filed when applying for an FM translator or FM booster station license. Data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit and for issuance of the license to operate the station.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-29607 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

Information Collection Requirement Approval by the Office of Management and Budget

December 21, 1987.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Terry Johnson, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0020.

Title: Application for Ground Station Authorization in the Aviation Services.

Form No. FCC 406.

A revised application form FCC 406 has been approved for use through 11/30/90. The current edition, approved through 8/31/88, will remain in use until revised forms are available.

OMB No.: 3060-0053.

Title: Application for Consent to Transfer Control of Corporation Holding Station License.

Form No.: FCC 703

The approval on application form FCC 703 has been extended through 10/31/90. The June 1986 edition with a previous expiration of 11/30/87 will remain in use until updated forms are available.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-29608 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

Common Carrier Public Mobile Services Information; Some Questions and Answers Regarding Dates and Filing Requirements Announced for Acceptance of Applications for Frequency Block B in Cumberland, MD-WV (Mkt. #269) and Hagerstown, MD (Mkt. #257) Cellular Markets

December 18, 1987.

Report No. CL-88-45

By Public Notice, Report No. CL-88-39 (released December 8, 1987) (52 FR 47050; December 11, 1987), we announced the filing dates and requirements for the captioned cellular markets. Several questions have been addressed to us regarding that Public Notice. In order to clear up any problems which may have arisen, the following is provided for further guidance.

Microfiche Envelope Size

It has come to our attention that 5" x 7" is not an "off-the-shelf" envelope size. In order to spare applicants any undue additional expenses, any references to a 5" x 7" envelope should be changed to 5" x 7.5". The five inch by seven and one-half inch envelope should be readily available from any stationery supplier or office supply store.

Full Size Map

The full-size map need not be included in the microfiche copy of the application, but must be present in the original (hard copy) from which the microfiche is made. For microfiching purposes, the reduced map is sufficient.

FAA Notification

Form 401, Schedule B, requires that the applicant's name and the date of FAA notification be entered. In accordance with Public Notice (Report No. CL-88-33, Mimeo No. 726, released November 27, 1987), FAA notification is no longer required at the time of filing. Applicants must still enter their name in the space provided on Schedule B, but should place N/A in the space provided for the date of FAA notification. (Or leave it blank).

Transmittal Sheet on Microfiche

Applicants need not include a copy of the completed transmittal sheet on the microfiche copies of the application. As its name indicates, the transmittal sheet provides information necessary to accept, sort and enter the data from the accompanying application.

Archival Quality

Archival quality microfiche for the purposes of cellular filings means the silver halide camera master or a copy made on silver halide film (such as Kodak Direct Duplicating Film). This requirement only applies to the microfiche labeled "Original".

Microfiche Color

The requirement that the microfiche be "black on white" is modified to read "black-appearing on clear transparent". Blue/black film which appears black to the naked eye is acceptable.

Any further questions should be addressed to Andrew Nachby at (202) 632-6450 or 653-5560.

Kevin J. Kelley,

Chief, Mobile Services Division.

[FR Doc. 87-29610 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee Charter on Advanced Television Service, Formation of Steering Committee for the Advisory Committee, and Announcement of First Meeting of Steering Committee

The Federal Communications Commission has amended the charter for the Advisory Committee on Advanced Television to provide for the establishment of a steering committee to facilitate the management of the Advisory Committee on Advanced Television Service and its subcommittees. The charter (which was printed at 52 FR 38523, October 16, 1987), is amended by revising Paragraph A as follows:

A. *The Committee's Official Designation.*

The Advisory Committee on Advanced Television Service will have no more than twenty-five members and will function as a Parent Committee. These members will be chosen by the Commission so as to obtain diverse and representative viewpoints. The Advisory Committee Chairman will direct the activities of the Committee and Subcommittees and will receive guidance, advice and instructions from the Chairman of the Federal Communications Commission.

The Chairman may establish a Steering Committee composed of the Subcommittee Chairmen and their Vice Chairmen. The purpose of the Steering Committee will be to help the Chairman manage the inter-related activities of the Subcommittees and to oversee various administrative functions of the Advisory Committee.

* * * * *

Pursuant to the newly-amended charter, the Chairman of the Advisory Committee has announced the formation of a managerial Steering Committee.

consisting of himself, the Subcommittee Chairs and Vice-Chairs.

In addition, the Subcommittee Chairs have been added to the list of ex officio members of the Advisory Committee.

The first meeting of the steering committee will be held on January 5, 1988, and will start at 9:00 A.M. in the Commission Meeting Room (Room 856) at 1919 M Street NW., Washington, DC. All interested parties are invited to attend. Because of the critical purpose the Steering Committee will serve in superintending the inter-related activities of the various subcommittees and the critical need for this committee to assume this responsibility as promptly as possible to ensure efficient and timely coordination of the various subcommittees' work, it is necessary to schedule the first meeting in less than 15 days notice.

The agenda for the first meeting will consist of:

1. Chairman's Remarks
2. Organizational and Personnel Matters
3. Voting Procedures
4. Funding
6. Subcommittee reports
7. Other Business
8. Concluding Remarks.

Any questions regarding this meeting should be directed to Mr. William Hassinger at (202) 632-6460 or Mr. Steve Bailey at (202) 632-7793.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-29609 Filed 12-24-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-806-DR]

Major Disaster and Related Determinations; Arkansas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA-806-DR), dated December 17, 1987, and related determinations.

DATED: December 17, 1987.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: Notice is hereby given that, in a letter dated December 17, 1987, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of Arkansas from tornadoes on December 14, 1987, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I, therefore, declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You are also authorized to provide Public Assistance in the affected areas, if requested and necessary, and an acceptable State commitment for these purposes is provided. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated areas.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert D. Broussard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Arkansas to have been affected adversely by this declared major disaster:

Crittenden County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 87-29586 Filed 12-24-87; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-805-DR]

Amendment To Notice of a Major Disaster Declaration, Puerto Rico

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico (FEMA-805-DR), dated December 17, 1987, and related determinations.

DATED: December 18, 1987.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: The Notice of a major disaster for the Commonwealth of Puerto Rico, dated December 17, 1987, is hereby amended to included the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 17, 1987:

The Municipality of Lajas for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 87-29587 Filed 12-24-87; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 17]

Rates, Charges and Services Provided at Marine Terminal Facilities

As indicated in various discussions with the parties to the proceeding, regional hearings and port visits will take place as follows:

January 11, 1988—Visit to Seattle, Washington
January 12—Visit to Tacoma, Washington
January 13—Visit to Portland Oregon
January 15—Hearings commencing at 9:00 a.m. in the "Gold Room", 450 Golden Gate Avenue, San Francisco, California
January 25—Hearings commencing at 9:00 a.m. in Hearing Room #1, 1100 L Street, NW., Washington, DC
January 27—Visit to Charleston, South Carolina
January 28—Visit to Savannah, Georgia
February 4—Visit to Tampa, Florida
February 9—Hearing in Houston, Texas commencing at 9:00 a.m. (Location to be announced)
February 10-11—Visit to New Orleans, Louisiana

The procedure that will be followed at the regional hearings will be a roundtable discussion, on the record, with participants designated by the Investigating Officer. Following the roundtable discussion, testimony will be heard from anyone else wishing to

comment or provide evidence relating to the issue in this proceeding. All participants and commentators are urged to prepare written statements in advance that will be entered into the record.

The following issues are to be addressed:

1. Should the Commission continue to regulate marine terminal operators by requiring the filing of tariffs and agreements?

2. If so, should a combined terminal operator/stevedore be regulated in the same manner?

3. Should the Commission seek to regulate stevedoring services that are performed independently from terminal services?

4. Who would benefit, and how, were the Commission to assert jurisdiction over stevedoring services?

5. Who benefits, and how, from the Commission's regulation of terminal services?

6. Is there a meaningful distinction between stevedoring and terminal services? Does the answer to this question depend upon the port, the type of cargo or the method of handling that cargo?

7. Should the Commission attempt to distinguish between terminal services performed for (or billed to) shippers/consignees and those performed for (or billed to) ocean carriers with a view toward regulating one and not the other, or regulating one differently than the other?

8. Should terminal service *agreements* with shippers be regulated in the same manner as terminal service agreements with ocean carriers?

9. Should off-pier terminal operators be regulated in the same manner as those operating terminals adjacent to vessel berths?

10. Does the answer to the previous question depend on the type of services offered at the off-pier facility, or on the identity of the operator?

11. Is antitrust immunity an important factor to consider in determining whether, and how, terminal and/or stevedoring services should be regulated?

12. Should the Commission distinguish among the various types of entities that typically provide terminal/stevedoring services (e.g. public port authorities; private terminal operators; and ocean carriers) in determining whether and how such services should be regulated?

13. Is there a need to change the Commission's definition of terminal services set forth in 46 § 515.6(d)?

The primary purpose of this investigation is to develop facts which will help to answer these questions. All participants and commentators are therefore asked to support their comments and opinions with relevant facts.

Any person who wishes to participate on these regional hearings or to discuss any other matter pertaining to this notice should contact the undersigned or Charles Haslup, Esq. at (202) 523-5723.

Thomas F. Moakley,

Commissioner.

[FR Doc. 87-29583 Filed 12-24-87; 8:45 am]

BILLING CODE 6730-01-M

Crowley Maritime Corp.; Filing of Application for Section 16 Exemption

Notice is hereby given that Crowley Maritime Corporation ("Crowley") has applied for an exemption pursuant to section 16, Shipping Act of 1984, 46 U.S.C. app 1715 and the Commission's implementing regulations, 46 CFR 572.301.

Specifically, Crowley, on its own behalf and on behalf of it present and future wholly-owned subsidiaries, seeks an exemption from the filing requirements of section 5, of the Act, 46 U.S.C. app 1704; from the prohibitions of section 10(a) (2) and (3) of the Act, 46 U.S.C. app 1709 (a) (2) and (3), to the extent applicable to agreements between or among Crowley or its subsidiaries; and from the prohibitions of section 10(c) of the Act, 46 U.S.C. app 1709(c) insofar as such prohibitions would apply to activity by, between or among Crowley or its subsidiaries, and insofar as joint action by common carriers is an essential element of the prohibited activity.

As grounds for the requested exemption, Crowley argues that "no regulatory interest is furthered by subjecting Crowley and its wholly-owned subsidiaries to statutory requirements intended to impose regulatory oversight on concerted activities engaged in by separate, competing entities, or intended to prevent separate entities from unfairly using their aggregate economic power." While acknowledging that in most aspects of their operations the various Crowley subsidiaries act through separate entities, it is also argued that they are all parts of a single, common business enterprise acting for the ultimate commercial benefit of Crowley. It is contended that the subsidiaries are not natural competitors, are in fact managed to avoid competition, and are legally incapable of combining or conspiring together in restaint of trade or commerce within the meaning of the antitrust laws.

In order for the Commission to make a thorough evaluation of the application for exemption, interested persons are requested to submit views or arguments on the application no later than February 12, 1988. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 in an original and 15 copies. Responses shall also be served on counsel for Crowley: William H. Fort, Esq., Kominers, Fort & Schlefer, 1401 New York Avenue, NW., Suite 1200, Washington, DC 20005.

Copies of the application are available for examination at the Washington, DC office of the Commission, 1100 L Street, NW., Room 11101.

Joseph C. Polking,

Secretary.

[FR Doc. 87-29593 Filed 12-24-87; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 167; 4-D-PA-645A]

Federal Property Resources Service; Portion, Letterkenny Army Depot, Franklin County, PA; Conveyance of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the General Services Administration dated September 4, 1987, the property, consisting of 214.12 acres of unimproved land, known as a portion of the Letterkenny Army Depot, Franklin County, Pennsylvania (4-D-PA-645A), has been transferred to the Commonwealth of Pennsylvania Game Commission.

2. The above described property was conveyed for wildlife conservation in accordance with the provisions of section 1 of said Pub. L. 80-537 (16 U.S.C. 667b), as amended by Pub. L. 92-432.

Dated: December 16, 1987.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 87-29634 Filed 12-24-87; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Program Announcement for Grants for Two-Year Programs of Schools of Medicine or Osteopathy; Deadline Change

In Federal Register Document 87–28822, page 47761 issue of Wednesday, December 16, 1987, the deadline for consideration of applications was January 8, 1988. In order to allow a minimum 30 day application period, the deadline is changed to January 29, 1988.

Dated: December 22, 1987.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 87–29641 Filed 12–24–87; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Privacy Act of 1974; Addition of Routine Use to an Existing System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notice of addition of new routine use to an existing system of records.

SUMMARY: The Public Health Service (PHS) is publishing notice of our intent to add a new routine use for the disclosure of information from the following Privacy Act system of records: 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA.

DATE: PHS invites public comments on the new routine use on or before January 27, 1988. This routine use will become effective without further notice on January 27, 1988, unless we receive comments which would result in a contrary determination.

ADDRESS: Please address comments to the HRSA Privacy Act Coordinator, Department of Health and Human Services, Parklawn Building, Room 14A–20, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3780. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: James C. Hargrave, Chief, Debt Management Branch, Health Resources and Services Administration, Department of Health and Human Services, Room 16A–09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–6344. This is not toll-free number.

SUPPLEMENTARY INFORMATION: HRSA maintains system of records 09–15–0045 to reduce the amount of outstanding debts owed to the Federal Government. The system of records covers individuals who have received student loans, scholarships, traineeships, or grant funds under Titles III, VII, and VIII of the Public Health Service Act as amended, and who are delinquent in repaying either loans or funds owed in lieu of a service obligation under such programs.

The Defense Manpower Data Center (DMDC), Defense Logistics Agency, Department of Defense (DOD), has established and maintained a system of records (S322.11DLA–LZ, Federal Creditor Agency Debt Collection Data Base, 52 FR 37492, October 7, 1987) devoted exclusively to Federal debt collection efforts. At the onset, the system contained a data bank record DOD active and retired military members, including the Reserve, National Guard, and Office of Personnel Management governmentwide Federal civilian and retired civilian records for computer matching purposes with any Federal creditor agency that may wish to avail itself of the opportunity to utilize this resource.

The proposed statement of routine use will allow HRSA to disclose delinquent debtors records to DMDC in order to obtain the current home or work address of individuals who receive Federal salaries or certain benefit payments resulting from Federal employment. HRSA follows the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) in seeking voluntary repayment, and does not utilize a computer matching program until it is clear that voluntary repayment will not be forthcoming.

This routine use is compatible with the purpose for which the records were collected.

Dated: December 18, 1987.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–15–0045

SYSTEM NAME:

Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA.

A new routine use, number 14, is added as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

14. HRSA may disclose records of delinquent debtors to the Defense Manpower Data Center, Department of Defense, to conduct matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or certain benefit payments resulting from Federal employment and are delinquent in their repayment of debts owed to the U.S. Government. These debts arose under programs administered by the Public Health Service. HRSA will disclose this information in an effort to collect the debts by administrative or salary offset, under the provisions of the Debt Collection Act of 1982, (Pub. L. 97–365).

* * * * *

[FR Doc. 87–29584 Filed 12–24–87; 8:45 am]

BILLING CODE 4160–15–

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–920–08–4121–02]

Proposed Decision to Lease by Application In the Green River-Hams Fork Federal Coal Production Region, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Green River-Hams Fork Regional Coal Team (RCT) recommendation of October 9, 1987, the BLM is proposing a coal leasing by application process within the current Green River-Hams Fork Region.

DATE: Public comments on this process are requested for a 30-day period from the date of publication of this notice. A final decision on the use of the leasing by applications process is anticipated from the Director of BLM by May 1, 1988.

ADDRESSES: Comments should be sent to State Director (CO–921), Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Betsy Daniel, Green River-Hams Fork Project Manager, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215, telephone (303) 236–1773 or (FTS) 776–1778.

SUPPLEMENTARY INFORMATION: On October 9, 1987, the Green River-Hams Fork RCT recommended to the Secretary of the Interior through the Director of BLM for approval the following motion:

First, that BLM staff prepare a decision document supporting the lease by application decision which would be published in the **Federal Register** no later than February 1, 1988. The Colorado State Director should be allowed to extend this date for good cause shown.

Second, public comment through the **Federal Register** be solicited for no less than 30 days.

Third, the BLM consider and repond to any comments received on the **Federal Register** notice and this RCT recommendation before a final decision is made on the lease by application mode request.

Fourth, a final decision on the lease by application mode be made by the BLM Director no later that May 1, 1988.

Fifth, by June 15, 1988, BLM staff should prepare operating procedures to use under the lease by application mode which will insure that consultation occurs in an early, thorough, and effective manner. The procedures should also include guidelines which would provide the RCT with early indicators that the group should consider operating under the regional activity planning and sale mode.

This **Federal Register** notice is the decision document and the request for public comment pursuant to the first two parts of the above motion. The Director's decision, in accordance with the third part of the motion, will be based on any public comments received during this 30-day period, as well as this RCT recommendation to pursue leasing on application in the Green River-Hams Fork region.

BLM requests that public comments address not only the lease by application mode but also provide suggestions for the operating procedures anticipated by the fifth part of the above motion.

Leasing by application will necessitate decertification of the Green River-Hams Fork coal production region in order to conform with the leasing by application regulations in 43 CFR 3425.1–5. However, the Green River-Hams Fork RCT wil continue to provide oversight to the lease by application process within the original regional boundaries. Specifically, during leasing by application, the RCT will:

(1) Serve as the forum for consultation and Federal-State cooperation in all major coal management decisions in the region, including leasing by application, preference right leasing, and exchanges;

(a) Review all leasing applications, PRLA actions and exchange proposals, and call RCT meetings, as necessary, to fully and openly discuss and make recommendations on any that appear to have significant regional implication.

(b) On activities that appear to have significant regional implications, solicit and consider, to the maximum extent possible, the views of the public at each decision point.

(2) Provide, on an annual basis, advice to the Federal-State Coal Advisory Board on regional coal planning, schedules and possible environmental, social, and economic consequences and serve as the State Director's major forum for Federal-State regional conflict resolution so that both Federal and State concerns are given the proper consideration.

(3) Guide the preparation of EISs on coal leasing actions that appear to have significant regional implications.

(4) Consider, from a regional perspective, comprehensive land use plans to be used for coal activities to determine data strengths and weaknesses and to identify additional data requirements and unresolved issues to be addressed during subsequent coal actions.

(5) On an annual basis, review market assessments prepared by the Bureau and requested by the RCT and recommend whether the region should return to a regional activity planning mode.

Tom Walker,

Associate State Director.

Dated: December 31, 1987.

[FR Doc. 87–29595 Filed 12–24–87; 8:45 am]

BILING CODE 4310-0B-M

[CO–920–08–4121–2]

Availability of the Draft Environmental Impact Statement for the James Creek Coal Preference Right Lease Application

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of an additional public comment period on the Draft Environmental Impact Statement (EIS) and Draft Amendment to the White River Management Framework Plan (MEP) for the James Creek Coal Preference Right Lease Application (C–0126998).

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and the regulations at 43 CFR 1600, notice is hereby given that the Bureau of Land Management is reopening the public comment period on the Draft EIS and MFP Amendment on the James Creek Preference Right Lease Application (PRLA) of Rio Blanco County, Colorado, for an additional 30-day public comment period. The public comment on this Draft EIS and MFP Amendment is being reopened in order to give the public an opportunity to comment on the analysis in light of regulations, concerning the processing of coal preference right lease applications (43 CFR 3430), published in the **Federal Register**, Vol. 52, No. 130, pages 25793 through 25800, July 8, 1987. The White River MFP Amendment documents land use planning decisions for the PRLA and several adjacent federal coal leases. All comments previously received will be considered and do not need to be resubmitted.

DATES: Written comments on the Draft EIS must be postmarked or delivered in person to the Craig District Office (at the address given below) not later than February 5, 1988, to be considered in the final EIS and MFP Amendment.

ADDRESS: Written comments on the document should be addressed to: Greg Goodenow, Project Manager, Bureau of Land Management, Craig District Office, 455 Emerson, Craig, Colorado 81625–1129; telephone (303) 824–8261.

Availability: Single copies of the Draft EIS are available from the craig District BLM Office (address and phone above).

FOR FURTHER INFORMATION CONTACT: Greg Goodenow, Bureau of Land Management, Craig District Office, 455 Emerson, Craig, Colorado 81625–1129; telephone (303) 824–8261.

SUPPLEMENTARY INFORMATION: This Draft EIS describes and analyzes the environmental impacts of the proposed leasing of Preference Right Lease Application (PRLA) C–0126998 located about 9 miles northeast of Meeker, Colorado, in Rio Blanco County, and in the Craig District, Bureau of Land Management. It also serves as the analysis for amending the White River Resource Area Management Framework Plan, by applying the unsuitability criteria (43 CFR Part 3460) and making multiple use decisions for the PRLA area and several adjacent federal coal leases.

This Draft EIS was previously made available for public review on November 22, 1985. The previous public comment period was from November 22, 1965, through February 24, 1986. Subsequently, the BLM published revised regulations at 43 CFR 3430 (52 FR, Wednesday, July 8, 1987) that changed the procedures for processing PRLAs. The public comment period is being reopened for an additional 30 days to allow the public an opportunity to judge the adequacy of the DEIS relative to the new processing procedures.

All public comments received in writing or at the public meetings during the November 22, 1985, to February 24, 1986, public comment period will be considered and do not need to be resubmitted. All additional comments

must be in writing and postmarked or delivered in person to the Craig District Office not later than February 5, 1988, to be considered in the final EIS.

Tom Walker,

Associate State Director.

Dated: December 21, 1987.

[FR Doc. 87-29596 Filed 12-24-87 8:45 am]

BILLING CODE 4310-JB-M

Nevada; Las Vegas District Advisory Council; Meeting

ACTION: Las Vegas District Advisory Council meeting.

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Bureau of Land Management, Las Vegas District Advisory Council will be held January 19 and 20, 1987, in Mesquite, Nevada.

The January 19th meeting will begin at 7:00 p.m. in the conference room, Pepperill's Western Village Hotel. This is an "open house" meeting, and is designed to allow members of the public the opportunity to discuss public lands issues with members of the Advisory Council and BLM representatives in an informal manner.

The meeting on January 20, 1987 will begin at 8:30 a.m. and will also be held in the conference room of the Peppermill's Western Village Hotel and Casino, Mesquite, Nevada. The meeting agenda will include the following:

1. Agenda Approval and Review of Previous Meeting Minutes
2. Project Land Needs for Growth and Development of City of Mesquite, Nevada—Presentation by Paul Henderson, City Manager Mesquite, Nevada
3. Update Report on Aerojet Exchange
4. Discussion of Nevada Land Exchange (Forest Enhancement Act)
5. Wilderness Briefing
6. Update on Monitoring of Grazing Allotments
7. Unfinished Business
8. Additional Items
9. Public Comments.

Both meetings are open to the public. Persons wishing to make oral statements to the Council, during the January 20th meeting, should notify the District Manager, Bureau of Land Management, Las Vegas District Office, P.O. Box 26569, Las Vegas, NV 89126, by January 15, 1987. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the Council Chairman. Summary minutes of the meeting will be maintained in the BLM Las Vegas District Office.

Ben F. Collins,

District Manager.

[FR Doc. 87-29564 Filed 12-24-87; 8:45 am]

BILLING CODE 4310-HC-M

[CA-050-4212-13; CA 20077]

Realty Action; Exchange; Public Lands and Private Lands in Butte County, Lake County, Mendocino County, Siskiyou County, Sonoma County, and Tehama County, CA

SUMMARY: The following described public lands have been determined to be suitable for disposal under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756).

Mount Diablo Meridian

Tract 1 T. 14 N., R. 13 W.
Sec. 34, NE¼NW¼;
Tract 2 T. 15 N., R. 14 W.
Sec. 13, S½NE¼;
Tract 3 T. 15 N., R. 14 W.
Sec. 13, S½NW¼;
Tract 4 T. 22 N., R. 2 E.
Sec. 10, SE¼NE¼;
Tract 5 T. 24 W., R. 2 E.
Sec. 32, NE¼NE¼;
Tract 9 T. 42 W., R. 5 W.
Sec. 18, SW¼NE¼;
Tract 10 T. 42 N., R. 5 W.
Sec. 18, W½SW¼NE¼NE¼SE¼, W½ NE¼SE¼, W½SE¼NE¼SE¼;
Tract 11 T. 9 N., R. 11 W.
Sec. 26, S½NW¼.

Mr. T. J. Nelson, P.O. Box 2678, Santa Rosa, California 95405, acting for Carolyn Henderson and Katherine Petterson, has applied to acquire the above described public lands in exchange for the following described privately owned lands:

Mount Diablo Meridian

Tract 13 N., R. 6 W.
Sec. 16, S½S½.

Containing 160 acres more or less.

SUPPLEMENTARY INFORMATION: A mineral evaluation has been completed on the public lands. Tracts 2 through 5 were found to be prospectively valuable for oil and gas. Tracts 2, 9 and 11 were found to be prospectively valuable for geothermal. Due to their low mineral potential, the minerals on all the tracts will be transferred when patent is issued. The mineral estate on the privately owned lands will be conveyed to the United States.

There will be reserved to the United States in the applied for lands, a right-of-way for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945). There will also be reserved to the United States on Tract 4, a 100 foot wide road Right-of-Way, S-3712, along side of Highway 32.

On Tract 4 there will be reserved to Pacific Bell a 20-foot wide telephone line under right-of-way SAC 063433. There will also be a 200-foot wide right-of-way under SAC 066448 for State Highway 32, reserved to the State of California under the authority of the Federal Aid to Highway Act.

On Tract 4 the N½N½SE¼NE¼ will be subject to conditions, restrictions and limitations under a covenant that will run with the property. The grantee, his heirs, successors and assigns agree that in the event the land is sold or otherwise disposed of, this covenant will continue with the property and be inserted into the conveyance documents.

On Tract 4 Recreation and Public Purpose application, CA 20422, has been filed by the City of Chico for a bicycle park rest area.

On Tract 10 a 280-foot wide right-of-way under SAC 080196 for Interstate 5 Highway will be reserved to the State of California under the authority of the Federal Aid to Highway Act.

The purpose of this exchange is to acquire lands along Cache Creek in Lake County, California for Bald Eagle habitat and Tule Elk habitat. The Bald Eagle is a Federal and state listed Endangered Species while the Tule Elk is a state protected species.

Publication of this notice in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation and the public land laws, including the mining laws, for a period of two years. This exchange is expected to be consummated before the end of that period.

FOR FURTHER INFORMATION CONTACT: Bruce Dawson, Acting Clear Lake Area Manager, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482; Phone: (707) 462-3873. Detailed information concerning the exchange, including the environmental assessment, is available for review.

DATES: For a period of 45 days from the publication of this notice in the **Federal Register**, interested parties may submit comments to the Ukiah District Manager, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482. Any adverse comments will be evaluated by the California State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification this realty action will become the final determination of the Bureau.

Date: December 17, 1987.

Alfred W. Wright,

District Manager.

[FR Doc. 87-29630 Filed 12-24-87; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico, Proposed Oil and Gas Lease Sale 113 (March 1988)

Clarification

On Wednesday, November 18, 1987, at 52 FR 44230 the notice of availability of the proposed Notice of Sale for the Central Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 113 was published in the Federal Register as a matter of information to the public.

Paragraph 12(d) of the Notice which lists Federal acreage under lease is amended to correct an error. The following blocks are not under lease and should be deleted from the list:

Map area	Block	Listed on page
1. West Cameron	33	5
2. West Cameron	131	5
3. West Cameron	135	5
4. Vermilion	37	7
5. Vermilion	47	7
6. South Marsh Island, South Addition	113	8
7. Eugene Island, South Addition	279	9
8. Eugene Island, South Addition	337	9
9. Ship Shoal	78	9
10. Ship Shoal, South Addition	278	10
11. Ship Shoal, South Addition	292	10
12. Main Pass	27	12
13. Ewing Bank	525	14
14. Ewing Bank	526	14
15. Mississippi Canyon	21	14
16. Mississippi Canyon	485	14
17. Green Canyon	135	15
18. Green Canyon	180	15

Dated: December 22, 1987.

Wm. D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 87-29683 Filed 12-24-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Point Reyes National Seashore; Delegation of Authority

The Superintendent, Point Reyes National Seashore, in the administration, operation and development of Point Reyes National Seashore is authorized to exercise that authority delegated to the Director Western Region by the Director, National Park Service, to negotiate and execute leases issued under Pub. L. 95-625, section 318(b); 16 U.S.C. 459 c-5(a).

Denis P. Galvin,

Acting Director, National Park Service.

[FR Doc. 87-29638 Filed 12-24-87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 399]

Cost Recovery Percentage

AGENCY: Interstate Commerce Commission.

ACTION: Publication of 1987 cost recovery percentage.

SUMMARY: Section 202 of the Staggers Rail Act of 1980 requires the Commission to calculate an annual Cost Recovery Percentage (CRP) for all railroad traffic. The CRP is a revenue to variable cost percentage calculated using railroad unit costs and a statistical sample of railroad traffic. If the CRP falls between 170 percent and 180 percent it becomes the jurisdictional threshold for rate regulation of market dominant traffic.

The Commission found that a CRP cannot be calculated using 1985 data because the total fixed plus variable costs of the railroad industry exceeded the industry's total freight revenue. 49 U.S.C. 10709(d)(5)(B). This finding is based on its analysis of expenses and revenues of the U.S. railroad industry. Therefore, in accordance with the Statute it has prescribed a CRP of 342.5 percent which is equal to the CRP last determined by the Commission. Thus, the threshold for rate regulation of market dominant traffic will remain at 180 percent for the period October 1, 1987 to September 30, 1988.

DATES: Comments must be filed January 27, 1988.

FOR FURTHER INFORMATION CONTACT:

William T. Bono (202) 275-7354
Robert C. Hasek (202) 275-0938
[TDD for hearing impaired: (202) 275-1721

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721, or by pickup from Dynamic Concepts, Inc., Room 2229 at Commission Headquarters).

This action will not significantly affect either the quality of the human environment or energy conservation. It will not have a significant impact on a substantial number of small entities.

Dated: December 14, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Simmons concurred.

Noreta R. McGee,

Secretary.

[FR Doc. 87-29611 Filed 12-24-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31150]

General Electric Corp. et al.; Exemption; Acquisition of Control of Gelco Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 11343 *et seq.*, the acquisition of control by General Electric Corporation and its affiliates of GELCO Corporation, a non-carrier which owns three subsidiaries that engage in interstate motor carrier operations. The exemption is subject to standard labor protection conditions.

DATES: This exemption is effective on December 31, 1987. Petitions for reconsideration must be filed by January 20, 1988.

ADDRESSES: Send pleadings referring to Docket No. 31150 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington DC 20423.

(2) Petitioners' representative: John M. Nannes, Skadden, Arps, Slate, Meagher & Flom, 1440 New York Avenue, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pick up from Dynamic Concepts, Inc., in Room 2229 at Commission Headquarters).

Decided: December 21, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-29612 Filed 12-24-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31167]

Wisconsin Central Ltd.; Control Exemption; Sault Ste. Marie Bridge Co.

AGENCY: The Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts Wisconsin Central Ltd. from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, for its control of the Sault Ste. Marie Bridge Company through its wholly-owned subsidiary, Wisconsin Bridges, Inc., subject to standard employee protective conditions.

DATES: This exemption will be effective on December 26, 1987. Petitions for reconsideration must be filed by January 18, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31167 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: William C. Sippel, Oppenheimer, Wolff & Donnelly, Two Illinois Center, 233 North Michigan Avenue, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. [TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: December 18, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-29613 Filed 12-24-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Repatriation Review of Mariel Cubans

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Attorney General has, pursuant to his prosecutorial discretionary authority, established a Repatriation Review Program for Cubans who arrived in the United States during the 1980 Mariel Cuban boatlift to determine which of those found to be excludable from the United States are to be repatriated to Cuba. This Notice is being published in order to give the public information on the Department's activities respecting the deportation of excludable Cuban boatlift participants.

EFFECTIVE DATE: December 11, 1987, the date of public announcement by the Deputy Attorney General.

FOR FURTHER INFORMATION CONTACT: Donald A. Couvillon, Attorney, Office of Immigration Litigation, Civil Division. Telephone (202) 272-4397.

SUPPLEMENTARY INFORMATION: Negotiations between the United States and Cuba conducted pursuant to the President's foreign affairs powers culminated in November 1987 with the announcement of the immediate reimplementation of the migration agreement entered into by the United States and Cuba on December 14, 1984. Implementation of the migration agreement had been suspended since the Government of Cuba unilaterally announced on May 20, 1985, that it would no longer comply with it. The Cuban Government's suspension of implementation was unrelated to any matter covered by the agreement, and was officially explained by the Cuban Government as being in response to the commencement of Radio Marti programming on the Voice of America. This was one of a number of times that the Government of Cuba has unilaterally suspended or cancelled implementation of a valid international agreement for reasons extraneous to the agreement itself.

One of the essential elements of the reinstated agreement is the commitment of the Government of Cuba to accept the return of those persons identified by the INS as excludable when the agreement was reached in December 1984. These Cuban nationals may be returned at only a limited rate, however, averaging about 100 a month. To minimize the additional time that the excludable Cubans who are to be returned to Cuba remain in the United States, it is important to begin returning them under the agreement as soon as possible consistent with fair and orderly review procedures.

The commitments on the part of the United States include resuming the issuance of immigrant visas to Cuban nationals and conducting a small refugee program in Cuba. The United States has taken immediate steps to begin operating an immigrant visa and refugee program consistent with the migration agreement. Until excludable Cubans are actually returned to Cuba, however, it will be unclear whether the Government of Cuba will in turn also perform its part of the agreement.

In light of the agreement of the Governments of Cuba and the United States to reimplement the migration agreement immediately; the limited rate at which the Cuban Government will accept returns of the excludable Cubans; the Cuban Government's previous suspension of this and other international agreements it has entered; and the need for the United States to have some assurance of the Cuban Government's compliance with the agreement as the United States begins performance of its own obligations thereunder, it is imperative that the United States begin returning the excludable Cubans as soon as possible. The prompt implementation of a plan to determine who shall be returned is therefore important to the protection and advancement of United States foreign policy interests.

In addition to serving the important interests described above, review by a repatriation panel will provide each detainee an additional opportunity, with adequate advance notice and with the opportunity for advice and assistance of counsel, at no expense to the government, to explain why he believes he should not be repatriated at this time. Furthermore, because there is urgent need to restore confidence in the procedures culminating in the deportation of an excludable Cuban, the review procedures established by this general statement of policy are effective immediately.

I have therefore concluded that a Mariel Cuban Repatriation Review Program should be effective immediately and that it is not subject to notice and comment rulemaking under the Administrative Procedure Act because the program: (1) Is exempt as a "foreign affairs function of the United States," 5 U.S.C. 553(a)(1); (2) reflects a "general statement of policy," 5 U.S.C. 553(b)(A); (3) constitutes "rules of agency organization, procedure, or practice," 5 U.S.C. 553(b)(A); and (4) there is "good cause" why notice and comment would be "impracticable,

unnecessary, or contrary to the public interest," 5 U.S.C. 553(b)(B).

The special review will be conducted to determine whether excludable Mariel Cubans shall be repatriated to Cuba. This process, created pursuant to the prosecutorial discretionary authority of the Attorney General, is in addition to all of the normal administrative and judicial remedies afforded these individuals. Those remedies include a formal determination of excludability and opportunities for relief within the statutory framework of the Immigration and Nationality Act. The normal process includes review before an Immigration Judge, and, if appropriate appeals are pursued, review before the Board of Immigration Appeals, United States District Courts, United States Courts of Appeals, and the Supreme Court.

The following is a procedural outline for the Mariel Cuban Repatriation Review Program.

1. Selection of Cases for Repatriation

A. Only those cases will be considered where the alien: (1) Has received an administratively final order of exclusion; or (2) volunteers to return to Cuba.

B. The Enforcement Branch of the Immigration and Naturalization Service will select cases from among those on the repatriation list based principally on criminal activity. The focus at the outset will be on those cases where the alien is ineligible for relief or where the alien is volunteering to return to Cuba.

2. Review of Case Selection

A. The alien will be sent notification by the Service that the Government intends to repatriate him to Cuba. This notification will also include a questionnaire for the alien to return to the Service within 30 days, and to set forth any reasons why he believes he should not be repatriated. Notification to the alien will also include a statement that he may seek the assistance of counsel, at no expense to the Government, in the preparation of his response.

B. Upon receipt of the alien's submission, or his failure to return the questionnaire within 30 days, attorneys with the Service and the Civil Division will review the case and determine whether to proceed with repatriation efforts.

C. The alien will be notified if it should be decided that repatriation efforts will not be pursued at this time.

D. If it should be decided that repatriation efforts will proceed, attorneys for the Service and the Civil Division will prepare a memorandum summarizing the facts of the case. The alien will then receive from the Government (1) a notice of intent to deport the alien, (2) a translated copy of the Government's memorandum summarizing the facts of the case, and (3) a form provided for the alien to respond to the Government's memorandum, included in which will be notification to the alien that he may seek the assistance of counsel, at no expense to the Government, in the preparation of his response. The alien will be instructed in the materials that any response must be forwarded directly to a Repatriation Review Panel within the time prescribed by the Panel.

E. The memorandum prepared by the Service and the Civil Division attorneys will be forwarded to a Panel along with a copy of relevant file material.

3. Repatriation Review Panels for Excludable Mariel Cubans

A. The Associate Attorney General shall establish one or more Repatriation Review Panels and their procedures and shall supervise the review by the Panels of the cases of excludable Mariel Cubans selected for repatriation to Cuba. Each Panel shall be composed of three members, and shall consist of: (1) The Associate Attorney General, or his designee; (2) the Assistant Attorney General for Civil Rights, or his designee; and (3) the Director of the Community Relations Service, or his designee. A majority is required for decision in each case.

B. A Panel possesses the power to approve the repatriation of an excludable Mariel Cuban to Cuba. The function of a Panel is separate and distinct from the function of the parole review process. Any decision from a Panel will not be determinative as to the retention of the alien in custody or release on parole. The function of a Panel will be confined to the review of cases for repatriation.

C. Decisions will be rendered based on a record review. Oral presentations will not be permitted, unless requested by a Panel in its sole discretion.

D. A Panel will consider only those cases that are presented for repatriation by the Service.

E. The Panel may independently evaluate the detainee's case in making its decision on whether to approve repatriation.

F. If a Panel does not approve repatriation to Cuba, the decision will be issued with the understanding that the case may be presented by the Service at a later date for reconsideration. Should the Service submit the case for reconsideration, all of the procedural aspects listed above willbe repeated.

G. The decision to repatriate is final and subject to no further review.

Edwin Meese III,

Attorney General.

Dated: December 21, 1987.

[FR Doc. 87-29567 Filed 12-24-87; 8:45 am]

BILLING CODE 4410-10-M

Lodging of Consent Decree Pursuant to the Clean Air Act; Robert Floyd et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on November 16, 1987, a proposed Consent Decree in *United States* v. *Robert Floyd, et al.*, Civil Action No. 86-1449-Civ-T-13, was lodged with the United States District Court for the Middle District of Florida. The Complainant sought penalties and injunctive relief against Robert Floyd under section 203 of the Clean Air Act, 42 U.S.C. 7522, for Mr. Floyd's acts of tampering with, and/or rendering inoperative, automotive emission control devices between January, 1984 and January, 1985.

The proposed Consent Decree imposes a permanent injunction against future violations of section 203 of the Clean Air Act by Mr. Floyd and assesses a civil penalty of $8,000.00. Should Mr. Floyd resume activity in the business of automobile or motor vehicle engine repair, the United States Environmental Protection Agency will have wide latitude to inspect Mr. Floyd's workplace to ensure his continued compliance with the Clean Air Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. Comments should refer to *United States* v. *Robert Floyd, et al.*, D.J. Ref. 90-5-2-1-991.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Middle District of Florida, Robert Timberlake Building, Room 410, 500 Zack Street, Tampa, Florida 33602 and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1731(R), Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section,

Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-29631 Filed 12-24-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acs," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Virginia:
VA87-15 (Jan. 2, 1987)..... pp. 1160-1161

Volume II

None.....

Volume III

Arizona:
AZ87-2 (Jan. 2, 1987)..... p. 16

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 18th day of December 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-29375 Filed 12-24-87; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under section 1-5 of Executive Order 12196 of February 26, 1980, published in the **Federal Register**, February 27, 1980 (45 FR 1279), will meet on January 13, 1988, starting at 10:00 a.m. in Room N3437 ABC, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, DC. The meeting will be open to the public.

The agenda provides for:

I. Call to Order
II. Approval of Minutes of July 8, 1987 Meeting
III. Appointment and Reappointments to FACOSH
IV. Election of Vice Chairman
V. President's 3% Goal

VI. Update on the Federal Hazard Communication Program
VII. Progress Report on the findings concerning the use of Lift Slab Construction—Bridgeport, Connecticut
VIII. Report on the Federal AIDS Issue
IX. New Business
X. Adjournment

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business January 6, 1988, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business January 6, 1988. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Frances Perkins Building, 200 Constitution Avenue NW., Room N3112, Washington, DC 20210, telephone (202) 523–9329.

Signed at Washington, DC, this 22 day of December 1987.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 87–29573 Filed 12–24–87; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Co.; Diablo Canyon Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 20, Appendix A, footnote d-2(c), to Pacific Gas & Electric Company, who holds Facility Operating License Nos. DPR–80 and DPR–82, which authorize operation of Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2. Units 1 and 2 (the facilities) are pressurized water reactors located in San Luis Obispo County, California.

Environmental Assessment

Identification of the Proposed Action: The exemption from 10 CFR Part 20 would allow the use of a radioiodine protection factor of 50 for MSA GMR–I canisters at Diablo Canyon, Units 1 and 2.

The Need for the Proposed Action: The exemption is needed to facilitate refueling operations at Diablo Canyon by reducing the time and person-rem exposure required to complete tasks that require respiratory protection.

Environmental Impacts of the Proposed Action: There are no significant environmental impacts of the proposed action. The proposed exemption involves a change in the installation or use of a facility component located within the restricted areas as defined in 10 CFR Part 20. The staff has determined that the proposed exemption involves no significant change in the types and no significant change in the amounts of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure.

With regard to potential nonradiological impacts, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action: We have concluded that there is no measurable environmental impact associated with the proposed exemption. The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts of plant operation, and would not allow the licensee to reduce radiation exposures to plant workers as explained in the application.

Alternative Use Of Resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Nuclear Generating Station Diablo Canyon Units 1 and 2" dated May 1973, and the "Addendum to the Final Environmental Statement for the Operation of the Diablo Canyon Nuclear Plant, Units 1 and 2," dated May 1976.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application for exemption dated April 18, 1986 and supplemental information provided by letter dated July 15, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 17th day of December, 1987.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Project Manager, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87–29560 Filed 12–24–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–368]

Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing: Arkansas Power and Light Co.

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–6, issued to Arkansas Power and Light Company (the licensee), for operation of the Arkansas Nuclear One, Unit 2 located in Russellville, Arkansas.

The amendment would revise the provisions in the Technical Specifications relating to a change in the required High Pressure Safety Injection Pump differential pressure required during surveillance testing, in accordance with the licensee's application for amendment dated October 28, 1987.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 25, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be

affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceedings; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matter within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petiton for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Jose A. Calvo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register**. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth St. NW., Washington, DC 20036, attorney for the licensee.

Nonetimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. that determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 28, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Tomlinson Library, Arkansas Technical University, Russellville, Arkansas 72801.

Dated at Bethesda, Maryland, this 16th day of December, 1987.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87–29563 Filed 12–24–87 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–457]

Commonwealth Edison Co.; Braidwood Station, Unit No. 2; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission or NRC), has issued Facility Operating License No. NPF–75 to Commonwalth Edison Company (the licensee) which authorizes operation of Braidwood Station, Unit No. 2 (the facility) at reactor core power levels not in excess of 3411 megawatts thermal (100 percent rated power). This license is restricted to power levels not in excess of five percent of rated power (170 megawatts thermal).

Braidwood Station, Unit No. 2 is a pressurized water reactor located in Will County, Illinois, about 20 miles south-southwest of Joliet, Illinois, in Reed Township. The license is effect as of the date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Ch. 1 which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** in December 15, 1978 (43 FR 58659).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement and the Assessment of the Effect of License Duration on Matters Discussed in the Final Environmental Statement for the Braidwood Station, Units 1 and 2 (dated June 1984) since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF–75, with Technical Specifications and the Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards, dated February 11, 1985; (3)

the Commission's Safety Evaluation Report, dated November 1983, (NUREG–1002), and Supplements 1 through 5; (4) the Final Safety Analysis Report and Amendments thereto; (5) the Environmental Report and supplements thereto; and (6) the Final Environmental Statement, dated June 1984, (NUREG–1026).

These items are available for inspection at the Commission's Public Document Room located at 1717 H Street, N.W., Washington, DC 20555, and in the Wilmington Township Public Library, 201 S. Kanakee Street, Wilmington, Illinois 60481. A copy of Facility Operating License NPF–75 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III/IV/V. Copies of the Safety Evaluation Report and Supplements 1 through 5 (NUREG–1002) and the Final Environmental Statement (NUREG–1026) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

Dated at Bethesda, Maryland, this 18th day of December 1987.

For the Nuclear Regulatory Commission.

Stephen P. Sands,

Project Manager, Project Directorate III–2 Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87–29561 Filed 12–24–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–312]

Sacramento Municipal Utility District; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–54 issued to Sacramento Municipal Utility District (the licensee), for operation of the Rancho Seco Nuclear Generating Station located in Sacramento County, California. The request for amendment was submitted by letter dated June 30, 1987 as supplemented October 3, 1987.

The proposed amendment consists of changes to the Rancho Seco Radiological Effluent Technical Specifications (RETS). The amendments was prompted by offsite environmental surveys and NRC inspections of the Rancho Seco liquid waste handling system. These actions indicated that the radioactivity in the offsite environment along the Rancho Seco liquid effluent pathway exceeded the design dose limits as specified by 10 CFR Part 50, Appendix I. An evaluation of this problem concluded that deficient technical specifications were responsible, in part, for the offsite contamination problem. In response to this finding, the Sacramento Municipal Utility District (SMUD) submitted proposed changes to the RETS.

The proposed changes involve specifications associated with the liquid, gaseous, and solid radwaste systems. The changes are predominately an upgrade of the existing specifications to current regulatory criteria. Where appropriate, site specific limits and restrictions were imposed. Site specific limits include more stringent or additional requirements, limitations, and surveillance to compensate for the fact that Rancho Seco is situated in arid surroundings without a large source of dilution for liquid effluents. An example of this type of change is the additional conservatism added to tables 4.21–1 and 4.21–2. This change increases the required sensitivity for analyzing samples of liquid effluents to ensure that the radiological impact on the environment is well defined and evaluated prior to discharge.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significantly reduction in a margin of safety.

The Commission has provided guidance for determining whether a proposed amendment involves a significant hazards consideration (51 FR 7751). Two examples of amendments that are not likely to involve a significant hazards consideration are as follows: (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications for example, a more stringent surveillance requirement; and (vii) a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The RETS associated changes proposed by SMUD are encompassed by the two examples referenced above. The proposed site specific requirements will provide additional conservatism and the other proposed changes will incorporate more current generic regulatory criteria into the Rancho Seco RETS.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice.

By January 25, 1988 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be

made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene,and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 2055, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., WAshington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be give Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Dated at Bethesda, Maryland, this 18th day of December, 1987.

For the Nuclear Regulatory Commission.

George Kalman,

Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87–29562 Filed 12–24–87; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements Under Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: Caseload Planning Survey.

3. The form number if applicable: NRC Form 462.

4. How often the collection is required: The information is requested annually.

5. Who will be required or asked to report: The information is requested from approximately 100 current and potential licensees under 10 CFR Parts 40, 70, 71, and 72, primarily suppliers of fuel and associated services needed for the nuclear power industry.

6. An estimate of the number of responses: 70.

7. An estimate of the total number of hours needed to complete the requirement or request: Four hours per response, for a total of 280 hours.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Information is requested each year from current and potential NRC licensees, primarily suppliers of fuel and associated services needed for the nuclear power industry, about their plans to submit license review requests to the NRC, to assist the Office of Nuclear Material Safety and Safeguards (NMSS) in preparing a caseload forecast prior to budget formulation. The information, after being reviewed and tabulated, serves as the agency source for caseload projections (number of cases by program area) for budget formulation.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Vartkes L. Broussalian, (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 21st day of December 1987.

For the Nuclear Regulatory Commission.

William G. McDonald, Director,

Office of Administration and Resources Management.

[FR Doc. 87–29665 Filed 12–24–87; 8:45 am]

BILLING CODE 7590–01–W

Documents Containing Reporting or Recordkeeping Requirements Under Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR Part 10—Disposal of High-Level Radioactive Waste in Geologic Repositories

3. The form number if applicable: Not Applicable.

4. How often the collection is required: The information need only be submitted one time.

5. Who will be required or asked to report: States or Indian Tribes, or their representatives, requesting consultation with the NRC staff regarding review of a potential high-level waste repository site, or wishing to participate in a license review for a potential repository.

6. An estimate of the number of responses: 40.

7. An estimate of the total number of hours needed to complete the requirement or request: An average of 40 hours per response for consultation requests, 35 hours per response for license review participation proposals, and 5 hours per response for statements of representative authority. The total burden for all responses is estimated to be 460 hours.

8. An indication of whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: 10 CFR Part 60 requires States and Indian Tribes to submit certain information to the NRC if they request consultation with the NRC staff concerning review of a potential repository site or wish to participate in a license review for a potential repository. Representatives of States or Indian Tribes must submit a statement of their authority to act in such representative capacity. The information submitted by the States and Indian Tribes is used by the Director of the Office of Nuclear Material Safety and Safeguards as a basis for decisions about the commitment of NRC staff resources to the consultation and participation efforts.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Vartkes L. Broussalian, (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 21st day of December 1987.

For the Nuclear Regulatory Commission.

William G. McDonald,

Director, Office of Administration and Resources Management.

[FR Doc. 87–29666 Filed 12–24–87; 8:45 am]

BILLING CODE 7590–1–M

Biweekly Notice, Applications and Amendment to Operating Licenses Involving No Significant Hazards Considerations; Correction

On November 18, 1987, the **Federal Register** published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. A correction needs to be made to that notice:

On page 44247, second column, under "Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York," the first paragraph, the last date "May 20, 2014" should read "October 17, 2014."

Dated at Bethesda, Maryland this 21st day of December 1987,

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–1, Division of Reactor Projects, I/II.

[FR Doc. 87–29663 Filed 12–24–87; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on January 20 and 21, 1988, at the H. R. L. Auditorium (Building 1, Room 102), West Road (corner of Diamond and Trinity Streets), Los Alamos National Laboratory, Los Alamos, NM.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, January 20, 1988—8:30 a.m. until the conclusion of business

Thursday, January 21, 1988—8:30 a.m. until the conclusion of business

The Subcommittee will review the documentation developed by LANL to support the TRAC PF1 Thermal-Hydraulic Code pursuant to the NRC RES Code Scaling Assessment and Uncertainty (CSAU) requirements. The status of the CSAU effort vis-a-vis the proposed ECCS Rule revision will also be discussed.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are

urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: December 18, 1987.

Thomas G. McCreless,

Assistant Executive Director for Technical Activities.

[FR Doc. 87-29661 Filed 12-24-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

Advisory Panel for the Decontamination of Three Miles Island, Unit 2, GPU Nuclear Corp.; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI-2) will be meeting on January 13, 1988, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 S. Second Street, Harrisburg, PA. The meeting will be open to the public.

At this meeting, the Panel will receive a status report on the progress of defueling from the licensee, General Public Utilities Nuclear Corporation. Representatives of the U.S. Nuclear Regulatory Commission (NRC) will discuss the recent reorganization of the NRC TMI-2 Cleanup staff. A member of the U.S. Environmental Protection Agency will provide a status report on their radiological monitoring activities. Members of the public will be given the opportunity to address the Panel.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Cleanup Project Directorate, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-9445.

Dated: December 22, 1987.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 87-29660 Filed 12-24-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Environmental Assessment and Finding of No Significant Impact; Dairyland Power Cooperative

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50 Appendix R, Section III.H. to Dairyland Power Cooperative (the licensee) for the La Crosse Boiling Water Reactor (LACBWR).

Environmental Assessment

Identification of Proposed Action

The exemption will allow the size of the fire brigade at LACBWR to be reduced from five members to three members.

LACBWR was permanently shutdown on April 30, 1987 and reactor defueling completed on June 11, 1987. The LACBWR operating License No. DPR-45 was modified to possess-but-not-operate status on August 4, 1987.

Need for Proposed Action

The exemption is needed to eliminate unnecessary requirements that were appropriate for an operating plant but are not needed at the permanently shutdown LACBWR facility.

Environmental Impact of the Proposed Action

The proposed action is administrative only and will have no environmental impact.

Alternative Use of Resources

This action does not involve the use of resources.

Agencies and Persons Consulted

The licensee initiated this exemption action. The NRC staff is reviewing their request. No other agencies or persons were consulted.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the licensee's applications dated April 7, 1986, March 24, 1987, and August 18, 1987, which are available in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Dated at Bethesda, Maryland, this 21st day of December 1987.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-29664 Filed 12-24-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-66, issued to Duquesne Light Company, et al (the licensees), for operation of the Beaver Valley Power Station Unit 1 located in Shippingport, Beaver County, Pennsylvania.

The proposed amendment would revise the provisions in the Technical Specifications relating to pressure isolation valves to reflect the staff's concerns as stated in Generic Letter 87-06.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 27, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in

the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., J.E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorneys for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 12, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Local Public Document Room, B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Bethesda, Maryland, this 22 day of December 1987.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Project Manager, Project Directorate I–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 87–29662 Filed 12–24–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25215; File No. SR–DTC–87–17]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Depository Trust Company

The Depository Trust Company ("DTC"), on November 23, 1987, filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

DTC has stated in the filing that the proposal consists of a clarification of DTC's existing procedures to the effect that DTC's mandatory book-entry receipt procedure applies to municipal note transactions effected in DTC's Same-Day Funds Settlement ("SDFS") System. Under this book-entry receipt procedure, DTC's facilities cannot be used to reclaim a book-entry delivery just because the delivery has been by book-entry, except where the parties to the trade had agreed to settle the trade by a physical delivery and the trade confirmation so specified.

DTC states that the proposal is consistent with the Act, particularly section 17A of the Act, in that it promotes the prompt and accurate clearance and settlement of securities transaction in securities that settle in same-day funds.

The rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Securities Exchange Act Rule 19b–4. The Commission may summarily abrogate the rule change at any time within 60 days of the filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comments within 21 days after notice is published in the **Federal Register.** Please file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal offices of DTC. All submissions should refer to File No. SR–DTC–87–17 and should be submitted by January 19, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Date: December 18, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–29679 Filed 12–24–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25211; File No. SR–DTC–87–16]

Self-Regulatory Organizations; Proposed Rule Change by The Depository Trust Company

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 17, 1987, the Depository Trust Company filed with

the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change, relating to book-entry pledges to Federal Reserve Banks by Participants of The Depository Trust Company ("DTC"), consists of DTC Participant Operating Procedures for pledges to Federal Reserve Banks, agreements between the Federal Reserve Bank of New York ("FRBNY") and DTC and an optional form of agreement between any other Federal Reserve Bank and DTC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Bank Participants of DTC in the regular course of their business pledge securities to Federal Reserve Banks as collateral for Treasury Tax and Loan account balances, deposits of public money, or advances by the Federal Reserve Bank to the Participant. Except for certain pledges to FRBNY, such pledges are now effected by physical delivery of securities certificates to the Federal Reserve Bank itself or to a third-party custodian other than DTC. The proposed rule change will enable Participants to effect such pledges through DTC's book entry system to those Federal Reserve Banks who choose to maintain DTC Pledgee accounts. This is consistent with and in furtherance of the nationwide commitment expressed in the Securities Exchange Act of 1934 (the "Act") to end physical movement of securities certificates and facilitate the prompt and accurate clearance and settlement of securities transactions, without any effect on DTC's safeguard for securities and funds. DTC does not know of any significant compliance problems for affected DTC Participants or any inconsistencies with the Act or rules or regulations thereunder applicable to DTC which could be attributed to the proposed rule change.

B. DTC perceives no impact on competition by reason of the proposed rule change.

C. The proposed rule change responds to requests from certain DTC Participants and several Federal Reserve Banks. No written comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 19, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Date: December 18, 1987.

[FR Doc. 87-29680 Filed 12-24-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25212; File No. SR-NSCC-87-14]

Self-Regulatory Organization; Proposed Rule Change by National Securities Clearing Corp.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 73s(b)(1), notice is hereby given that on November 19, 1987, NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is attached as Exhibit 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to allow NSCC itself to designate transactions as "Special Trades." A "Special Trade" is a trade which settles directly between parties to the transaction on a trade-for-trade basis and is not netted with other transactions, either in the Balance Order or Continuous Net Settlement ("CNS") Systems. Under current NSCC rules and procedures, trades settle as a Special Trade only when so designated by both parties to a transaction. The proposed

amendment would allow NSCC itself to designate a trade as a Special Trade to be settled directly between the two parties to the transaction.

NSCC's ability to designate trades as Special Trades will increase the ability of NSCC to offer comparison services with respect to transactions in securities which, for a variety of reasons, cannot be included in CNS or Balance Order processing. For example, currently, when a security is eligible for CNS processing at a regional clearing agency but not at NSCC (because the security is not Depository Trust Company eligible), NSCC includes transactions in such a security in its Balance Order system. As part of Balance Order processing, when a trade involves an NSCC participant and a regional clearing agency participant, NSCC stands in the middle of a Balance Order between its participant and the regional clearing agency, *e.g.*, the regional clearing agency delivers to NSCC (on behalf of its participant) and NSCC, in turn, delivers to its participant. If there is difficulty in settling the transaction, NSCC, as a party with receive and deliver obligations, may be subject to buy-in liability. Rather than ceasing to process transactions in securities in general when there are such settlement problems, the proposal will allow NSCC to designate transactions in such securities between its Members and participants of a regional clearing agency (or between participants in two regional clearing agencies) as Special Trades. In such instances, NSCC will be able to continue to offer comparison services in the security, with settlement to be conducted on a trade-for-trade basis between the two parties to that trade.

Because the proposed rule change will enhance the ability of NSCC to offer comparison services on a greater number of securities, the proposal will promote the prompt and accurate clearance and settlement of securities transactions and is consistent with the Securities Exchange Act of 1934, as amended ("Act").

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Memphis, Participants, or Others

No Comments on the proposed rule change have been solicited or received. NSCC will notify the Securities and Exchange Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW. Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 19, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 18, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–29682 Filed 12–24–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16182; 812–6754]

INA Investment Securities, Inc.; Application

December 21, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: INA Investment Securities, Inc.

Relevant 1940 Act Sections: Exemption requested under Section 6(c) of the 1940 Act from sections 13(a)(2), 18(a) and 18(c) of the 1940 Act and an order requested under section 17(d) of the 1940 Act and Rule 17d–1 thereunder.

Summary of Application: Applicant seeks an order to permit it and all subsequent similar investment companies organized or sponsored by CIGNA Corporation ("CIGNA") or its affiliates (collectively the "CIGNA Funds") (i) to enter into deferred fee arrangements with their directors or trustees and (ii) to permit the CIGNA Funds and participating directors (or trustees) to effect transactions incident to such arrangements.

FILING DATE: The application was filed on June 9, 1987 and amended on November 25, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on January 13, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. INA Investment Securities, Inc., 1600 Arch Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Fran Pollack-Matz, Staff Attorney (202) 272–3024 or Karen L. Skidmore, Special Counsel (202) 272–3023 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier, (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations:

1. INA Investment Securities, Inc. (the "Company") is a diversified, closed-end management investment company incorporated in Delaware. The Company

has a primary objective of generating income and a secondary objective of obtaining capital apprecation. CIGNA Investments, Inc. ("CII"), an indirect, wholly-owned subsidiary of CIGNA, serves as the investment adviser for the Company.

2. The Board of Directors of the Company consists of ten persons, seven of whom are not "interested persons" of the Company within the meaning of section 2(a)(19) of the 1940 Act. Following the Company's annual meeting on April 24, 1987, the directors who are not employed by CIGNA or an affiliate thereof receive on an ongoing basis for serving as directors of the Company and as trustrees of CIGNA Funds Group and CIGNA Annuity Funds Group (collectively, the "Trusts"), an annual retainer of $12,000 ($15,000 for those who serve as Committee Chairmen) plus a fee of $1,000 for each Board meeting attended and $750 for each Committee meeting attended. Such annual retainers, Board meeting fees and Committee meeting fees are allocated among the Company and the Trusts so that the Company and each series of shares outstanding of the Trusts pay an amount based on its net assets as a percentage of the total of the net assets of the Company and of each series of shares outstanding of the Trusts.

3. Remuneration to directors on an annual basis (based on net assets of the Company and each series of shares of the Trusts at January 1, 1987) and assuming a typical meeting schedule is anticipated to be approximately $8,300. The Company pays no other remuneration to its directors. The amounts paid to the directors are, and are expected to continue to be, insignificant in comparison to the total net assets of the Company.

4. Pursuant to the vote of shareholders at that annual meeting, the membership of the Board of Directors of the Company is now idential to the membership of the Board of Trustees of both Trusts. In accordance with exemptive orders previously granted to the Trusts or their predecessors, the trustees of the Trusts are entitled to participate in certain deferred fee arrangements. The Company believes that it would be advantageous to offer to directors receiving remuneration from the Company a deferred compensation arrangement which is substantially identical to the deferred compensation arrangement available to such persons as trustees of the Trusts.

5. The purpose of the standard form of deferred fee agreement ("Agreement") implementing the proposed arrangement would be to permit individual directors to elect to defer receipt of their directors' fees, in order to avoid dimunition or loss of social security benefits to which they may otherwise be entitled, to enable them to defer payment of income taxes on such fees, or for other reasons. The Company believes that the availability of the proposed arrangement will enhance the Company's ability to attract and retain directors of the same high caliber as those who now serve on its Board. The proposed arrangement would be available to all persons who receive directors' fees from the Company.

6. The Agreement will allow each individual director to defer receipt of all directors' fees which otherwise would become payable by the Company to him for services performed after the date of such Agreement. The election made by execution of an Agreement will continue in effect for each subsequent calendar year unless, prior to January 1 of such year, the director delivers to the President of the Company a written revocation of such election.

7. Under the Agreement, the deferred director's fees will be credited to a book reserve account established by the Company (the "Deferred Fee Account"), as of the date such fees would have been paid to such director. Director's fees which become payable for attending Board meetings or meetings of Committees of the Board will be credited to the Deferred Fee Account on the following business day. Under the Agreement, deferred fees will accrue interest on a daily basis from and after the date of credit to the Deferred Fee Account in an amount equal to the amount that would have been earned had such deferred fees (plus all interest thereon on a daily basis) been invested and reinvested in shares of the CIGNA Cash Fund of CIGNA Funds Group.

8. The Agreement provides that the Company's obligation to make payments of the Deferred Fee Account will be a general obligation of the Company, and payments made pursuant to the Agreement will be made from the Company's general assets and property. With respect to the obligatons created under the Agreement, the relationship of the director to the Company will be only that of a general unsecured creditor. The Agreement also provides that the Company will be under no obligation to purchase, hold or dispose of any investments under the Agreement, but, if the Company chooses to purchase investments to cover its obligations under such Agreement, then any and all such investments will continue to be a part of the general assets and property of the Company.

9. Under the Agreement, deferred director's fees (including interest accrued thereon) will become payable in cash upon termination of the director's service in such capacity, in a lump sum or in such number of annual installments as shall be determined by the Company in its sole discretion. Each annual payment will be made as of January 31, beginning with the January 31st following the termination of the director's service as a director. In the event of the director's death, amounts payable to him under the Agreement will thereafter be payable to his designated beneficiary; in all other events, the director's right to receive payments will be nontransferable. The Agreement provides that the Company in its sole discretion has reserved the right to accelerate payment of amounts in the Deferred Fee Account at any time after the termination of the director's service as a director. In addition, in the event of the liquidation, dissolution or winding up of the Company or the distribution of all or substantially all of the Company's assets and property to its shareholders, all unpaid amounts in the Deferred Fee Account shall be paid in a lump sum on the effective date thereof.

Applicant's Legal Conclusions

1. The Agreement does not involve joint transactions between an Applicant and its directors within the meaning of section 17(d) of the 1940 Act and Rule 17d–1 thereunder as the interest to be accrued on the deferred amounts under the Agreement is to be based on the yield of the CIGNA Cash Fund, not that of the Company. The use of the CIGNA Cash Fund's yield to determine interest on deferred amounts does not inherently differ from the use of the prime rate or another assumed rate of interest. To the extent that the Agreement may be deemed to involve joint transactions, the participation in the Agreement by the Company will not be on a basis that is less advantageous than that of any other participant; as an affiliated person, the participating director would neither directly nor indirectly receive a benefit which would otherwise inure to the Company or any of its shareholders.

2. The Agreement possesses none of the characteristics of "senior securities" that led to the adoption of restrictions pertaining to such securities in sections 13(a)(2), 18(a), and 18(c) of the 1940 Act. All liabilities created by credits to the Deferred Fee Account under the Agreement would be offset by essentially equal amounts of assets of the Company which would not otherwise exist if the fees were paid on a current basis. In addition, the amounts

eligible for deferral will be *de minimis* as compared with the Company's present net assets of over $92 million.

3. The deferral of director's fees in accordance with the Agreement will have a negligible effect on the Company's assets, liabilities, net assets and net income per share. Further, the Agreement will not obligate the Company to retain a director in such capacity, nor will it obligate the Company to pay any (or any particular level of) director's fees to any director. Rather, it will merely permit a director to elect to defer receipt of director's fees which he would otherwise receive on a current basis from the Company.

4. Although as a registered closed-end company, the company is not subject to section 22(g) of the 1940 Act, the Company would not be issuing securities for services or for property other than cash or securities. Although any director's fees which might become payable to a director would clearly be for services, any such fees would become payable independent of the Agreement. The Agreement would merely provide for deferral of payment of such fees and thus should be viewed as being "issued" not in return for services but in return for the Company's not being required to pay such fees on a current basis.

Applicant's Conditions

1. The return on the Deferred Fee Account will be based upon the return of the CIGNA Cash Fund or, if the CIGNA Cash Fund is no longer in existence, upon a recognized measure of prevailing market interest rates (e.g. the Treasury Bill rate).

2. The Company, in its discretion, may invest deferred fees in shares of the CIGNA Cash Fund; provided, however, that any such investment shall be in accordance with section 12(d)(1) of the 1940 Act.

3. Any shares of the CIGNA Cash Fund purchased by the Company to cover its obligations under the Agreement will be voted by the Company with respect to all matters in like proportion to the votes cast by the public shareholders of the CIGNA Cash Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-29681 Filed 12-24-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted within 30 days of this publication in the **Federal Register.** If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Application for Surety Bond Guarantee Assistance

Form No.: SBA 990, Proposed 991, 994, 994B, 994C, 994F, 994H

Frequency: On occasion

Description of Respondents: These forms are completed by sureties to evaluate the capabilities and potential success under the Surety Bond Guarantee Program. Forms constitute request for Government assistance by applicants.

Annual Responses: 55,000

Annual Burden Hours: 28,837

December 21, 1987.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 87-29560 Filed 12-24-87; 8:45am]

BILLING CODE 8025-01-W

STATE DEPARTMENT

[Public Notice CM-8/1149]

Shipping Coordinating Committee, Subcommittee on Safety of Navigation; Meeting

The Working Group on Safety of Navigation of the Subcommittee on Safety of Life at Sea (SOLAS) will hold an open meeting at 9:30 am on Thursday, January 14, 1988, in room 4315 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The purpose of the meeting is to prepare U.S. positions for the 34th Session of the Subcommittee on Safety of Navigation of the International Maritime Organization to be held in London, February 8-12, 1988. Items of principal interest on the agenda for this session are:

—Decisions of other IMO bodies
—Routing of Ships
—Problems related to deep-draft vessels
—Removal of disused offshore platforms
—Infringement of safety zones around offshore structures
—Amendment of (SOLAS) regulations V/12(f)
—World-wide navigation system
—Electronic chart display systems
—Navigational aids and related equipment
—Ship reporting systems and reporting requirements
—Work program
—Any other business

Members of the general public may attend up to the seating capacity of the room.

For further information contact Mr. Edward J. LaRue, Jr., U.S. Coast Guard (G-NSS), Washington, DC 20593-0001, Telephone: (202) 267-0416.

Dated: December 16, 1987.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee.

[FR Doc. 87-29633 Filed 12-24-87; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended December 18, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (see 14 CFR 302.1701 et. seq.). The due date for answers, conforming applications or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application be expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further preceedings.

Docket No. 45363

Date Filed: December 17, 1987.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 14, 1988.

Description: Application of Challenge Air International, Inc. pursuant to section 401(d)(3) of the Act and Subpart Q of the Regulations, is seeking to resume services in interstate, overseas and foreign charter air transportation.

Docket No. 45367

Date Filed: December 18, 1987.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 15, 1988.

Description: Application of Air Ontario Inc., pursuant to section 402 of the Act and Subpart Q of the Regulations to engage in foreign scheduled air transportation of persons, property and mail between Detroit, Michigan and London, Ontario.

Docket No. 45364

Date Filed: December 17, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: January 14, 1988.

Description: Application of I.L.P.O. Aruba N.V., pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to provide charter cargo services between any point or points in the United States and any point or points in Aruba, charter cargo services between any point or points in the United States and any points in a third country provided that such traffic is carried via Aruba and makes a stopover in Aruba of at least two consecutive nights: non-scheduled, individually waybilled cargo services between Miami and Ft. Lauderdale, Florida, San Juan, Puerto Rico or Houstion, Texas, on the one hand, and Arub, on the other hand.

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 87-29643 Filed 12-24-87; 8:45 am]

BILLING CODE 4010-62-M

Aviation Proceedings; Agreements filed During the Week Ending December 18, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 45356 R-1—R-11

Parties: Members of International Air Transport Association.

Date Filed: December 14, 1987.

Subject: Within Mid East Fares.

Proposed Effective Date: April 1, 1988.

Docket No. 45357

Parties: Members of International Air Transport Association.

Date Filed: December 14, 1987.

Subject: Agency Administration Rules

Proposed Effective Date: January 1, 1988.

Docket No. 45358

Parties: Members of International Air Transport Association.

Date Filed: December 14, 1987.

Subject: Ex-Yugoslavia Rates.

Proposed Effective Date: December 14, 1987.

Docket No. 45359

Parties: Members of International Air Transport Association.

Date Filed: December 14, 1987.

Subject: Australia-Ireland Fares.

Proposed Effective Date: January 1, 1988.

Docket No. 45360 R-1—R-36

Parties: Members of International Air Transport Association.

Date Filed: December 14, 1987.

Subject: South Atlantic-TC2 Fares.

Proposed Effective Date: Apil 1, 1988.

Docket No. 45366 R-1—R-8

Parties: Members of International Air Transport Association.

Date Filed: December 14, 1987.

Subject: Passenger Agency Conference Agreement.

Proposed Effective Date: January 1, 1988.

Docket No. 45368

Parties: Braniff, Inc. and Florida Express, Inc.

Date Filed: December 18, 1987.

Subject: Application of Braniff, Inc. requests an exemption pursuant to section 416(b) of the Act and from the provisions of section 408 of the Act to permit the acquisition of Florida Express, Inc.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-29644 Filed 12-24-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Advisory Circular 29-2A, Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance.

SUMMARY: Advisory Circular (AC) 29-2A consolidates FAA guidance on the certification of transport category rotorcraft. AC 29-2A includes all of the material in AC 29-2, Certification of Transport Category Rotorcraft, May 20, 1983, through Change 2, with minor editorial changes and some paragraph renumbering. In addition, it includes material for 52 new paragaphs and 12 revised paragraphs. As part of the FAA effort to achieve national standardization in rotorcraft certification, the AC serves as a ready reference for manufacturers, modifiers, FAA design evaluation engineers, flight test engineers, and engineering flight test pilots. This AC provides information on methods of compliance with Part 29 of the Federal Aviation Regulations which contains airworthiness standards for transport category rotorcraft. This material is not to be construed as having any legally binding status and must be treated as advisory only. However, to ensure standardization in the certification process, these procedures should be considered during all rotorcraft type certification and supplemental type certification activities.

DATE: AC 29-2A was issued by the Rotorcraft Certification Directorate in Fort Worth, Texas, on September 16, 1987.

How to Obtain Copies

A copy of this AC may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Debra H. Myers, FAA, Regulations Program Management, ASW-111, Fort Worth, Texas, 76193-0111, (817) 624-5118.

Issued in Fort Worth, Texas, on December 11, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-29649 Filed 12-24-87; 8:45 am]

BILLING CODE 4910-13-M

Change 1, Advisory Circular 27-1, Certification of Normal Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance.

SUMMARY: Change 1, Advisory Circular (AC) 27-1, Certification of Normal Category Rotorcraft, adds 59 new paragraphs and revises 6 paragraphs. AC 27-1 consolidates FAA guidance on the certification of normal category rotorcraft. As part of the FAA effort to achieve national standardization in rotorcraft certification, it serves as a

ready reference for manufacturers, modifiers, FAA design evaluation engineers, flight test engineers, and engineering flight test pilots. AC 27–1 provides information on methods of compliance with Part 27 of the Federal Aviation Regulations which contains airworthiness standards for normal category rotorcraft. This material is not to be construed as having any legally binding status and must be treated as advisory only. However, to ensure standardization in the certification process, these procedures should be considered during all rotorcraft type certification and supplemental type certification activities.

DATE: Change 1, AC 27–1, was issued by the Rotorcraft Certification Directorate in Fort Worth, Texas, on September 16, 1987.

How to Obtain Copies

A copy of Change 1, AC 27–1, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Debra H. Myers, FAA, Regulations Program Management, ASW–111, Fort Worth, Texas, 76193–0111, (817) 624–5118.

Issued in Fort Worth, Texas, on December 11, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87–29650 Filed 12–24–87; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 142 (21st Meeting)—Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 (21st Meeting) on Air Traffic Control Radar Beacon System/Mode S (ATCRBS/MODE S) Airborne Equipment to be held on January 19–20, 1988, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's remarks; (2) Approval of Minutes of the twentieth meeting; (3) Briefing on DDC system incorporated data link services; (4) Briefing on technical and operational aspects of discrete address code assignments; (5) Review of airborne data link processor design changes; (6) Discuss structure of committee final report; (7) Review of draft ADLP MOPS sections 1 and 2; (8) Assignment of Tasks; (9) Other business; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 14, 1987.

Herbert P. Goldstein,

Designated Officer.

[FR Doc. 87–29646 Filed 12–24–87; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 162 (4th Meeting)—Aviation System Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of RTCA Special Committee 162 (4th Meeting) on Aviation System Design Guidelines for Open Systems Interconnection (OSI) to be held on January 12–14, 1988, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of minutes of the third meeting held on July 8–10, 1987; (3) Report on working group activities; (4) Review of related activities being conducted by other organizations; (5) Review of Boeing DATAC data bus architecture; (6) Review of material submitted for inclusion in committee report; (7) Develop outline for committee report and assign section to working groups; (8) Working groups meet in separate sessions; (9) Review of working groups accomplishments and future activities; (10) Assignment of tasks; (11) Other business; (12) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 14, 1987.

Herbert P. Goldstein,

Designated Officer.

[FR Doc. 87–29647 Filed 12–24–87; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station Closure; Goodland, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Flight Service Station Closure; Goodland, Kansas.

SUMMARY: Notice is hereby given that on January 2, 1988, the Flight Service Station at Goodland, Kansas will be closed. Thereafter, service to the general public at Goodland, Kansas, will be provided by the Flight Service Station at Wichita, Kansas.

This information will be reflected in the next issue of the FAA Organizational Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Kansas City, Missouri, on December 11, 1987.

Clarence E. Newbern,

Assistant Manager, Air Traffic Division.

[FR Doc. 87–29653 Filed 12–24–87; 8:45 am]

BILLING CODE 4910–13–M

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee (ATPAC) to be held from January 26, at 9 a.m., through January 29, 1988, at 11:30 a.m., in the Broward Room at the Tampa Airport Marriott Hotel, Tampa International Airport, Tampa, FL.

The agenda for this meeting is as follows: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.

5. Old Business.

6. New Business.

7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than January 22, 1988, Mr. Walter H. Mitchell, Executive Director, ATPAC, Air Traffic Operations Service, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3725. Information may be obtained from the same source.

The next quarterly meeting of the FAA ATPAC is planned to be held from April 18 through April 22, 1988, in Washington, DC.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on December 17, 1987.

Walter H. Mitchell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 87-29651 Filed 12-24-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ.—Public Debt Series—No. 35-87]

Treasury Notes of December 31, 1989, Series AG-1989

December 17, 1987.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,250,000,000 of United States securities, designated Treasury Notes of December 31, 1989, Series AG-1989 (CUSIP No. 912827 VR 0), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated December 31, 1987, and will accrue interest from that date, payable on a semiannual basis on June 30, 1988, and each subsequent 6 months on December 31 and June 30 through the date that the principal becomes payable. They will mature December 31, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Tuesday, December 22, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, December 21, 1987, and received no later than Thursday, December 31, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which

tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred , e.g., 99.923 and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentages allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Thursday, December 31, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds naturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, December 23, 1987. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursaday, December 31, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the pruchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular is such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-29756 Filed 12-24-87; 8:45 am]

BILLING CODE 4810-40-M

[Dept. Circ.—Public Debt Series—No. 36-87]

Treasury Notes of December 31, 1991, Series Q-1991

December 17, 1987.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,000,000,000 of United States securities, designated Treasury Notes of December 31, 1991, Series Q-1991 (CUSIP No. 912827 VS 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated December 31, 1987, and will accrue interest from that date, payable on a semiannual basis on June 30, 1988, and each subsequent 6 months on December 31 and June 30 through the date that the principal becomes payable. They will mature December 31, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public

monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, December 23, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, December 22, 1987, and received no later than Thursday, December 31, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5 must be made or completed on or before Thursday, December 31, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, December 29, 1987. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, December 31, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2 In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-29757 Filed 12-24-87; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Advisory Committee on Women Veterans; Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Advisory Committee on Women Veterans has been renewed for a two year period beginning November 27, 1987 through November 27, 1989.

Dated: December 16, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87-29655 Filed 12-24-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 248
Monday, December 28, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, January 5, 1988.

PLACE: Board Room (Room 812A), Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first four items are open to the public. The last two items are closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Aircraft Accident Report: Rosie O'Grady's of Orlando, Inc., SNJ-4 and Midwest Packaging Materials Company C-340A Midair Collision, Orlando, Florida, May 1, 1987
2. Aircraft Accident Report: Midair Collision Involving a Sachs Electric Company Piper PA-31 and a U.S. Army Beech U-21, Lake City Army Ammunition Plant, Independence, Missouri, January 20, 1987
3. Marine Accident Report: Collision between the Hong Kong Bulk Carrier PETERSFIELD and the U.S. Towboat BAYOU BOEUF, New Orleans, Louisiana, October 28, 1986
4. Withdrawal of Recommendation to FAA re Failure of Main Landing Gear Spring Steel Struts on Cessna Model 182F Airplanes
5. Opinion and Order: Administrator v. Gentile, Docket SE-7550; disposition of the appeals of both parties
6. Opinion and Order: Administrator v. Fallon, Docket SE-8065; disposition of the Administrator's appeal

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Bea Hardesty,
Federal Register Liaison Officer.
December 21, 1987.

[FR Doc. 87-29687 Filed 12-23-87; 10:03 am]
BILLING CODE 7533-01-M

PAROLE COMMISSION

Record of Vote of Meeting Closure

Pursuant to the Government in the Sunshine Act (Pub. L. 94-409) (5 U.S.C. Sec. 552b)

I, Benjamin F. Baer, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at nine o'clock a.m. on Tuesday, December 15, 1987 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about 10:30 a.m. The purpose of the meeting was to decide approximately 8 appeals from National Commissioners' decisions pursuant to 28 CFR 2.27. Eight Commissioners were present, constituting a quorum, when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Benjamin F. Baer, Saundra Brown Armstrong, Cameron M. Batjer, Jasper Clay, Jr., Carol Pavilack Getty, Daniel R. Lopez, G. MacKenzie Rast, and Victor M.F. Reyes. The Commissioners and a Parole Analyst attended.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Date: December 16, 1987.

Benjamin F. Baer,
Chairman, U.S. Parole Commission.

[FR Doc. 87-29718 Filed 12-23-87; 11:37 am]
BILLING CODE 4410-01-M

Corrections

Federal Register
Vol. 52, No. 248
Monday, December 28, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 352

[Docket No. 87-132]

Avocados From Mexico Transiting the U.S. to Foreign Countries

Correction

In rule document 87-28583 beginning on page 47373 in the issue of Monday, December 14, 1987, make the following corrections:

On page 47374, in the first column, under **Comments**, in the first paragraph, in the first line, "states" should read "stated" and in the third line, after "Mexico" insert "through the United States will unnecessarily impede trade between Mexico".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 84G-0384]

Cocoa Butter Substitute Primarily From Palm Oil

Correction

In rule document 87-28959 beginning on page 47918 in the issue of Thursday, December 17, 1987, make the following corrections:

1. On page 47919, in the first column, six lines from the bottom, "§ 184.129" should read "§ 184.1259".

2. On the same page, in the third column, in the 13th line, "and" should read "at".

§ 184.1259 [Corrected]

3. On page 47920, in the third column, in § 184.1259(a)(2), in the sixth line, "approved" should read "approval".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86P-0083/CP]

Medical Laser Manufacturers Association; Neodymium:Yttrium:Aluminum:Garnet (Nd:YAG) Laser for Posterior Capsulotomy; Panel Recommendations on Petition for Reclassification

Correction

In notice document 87-28630 beginning on page 47454 in the issue of Monday, December 14, 1987, make the following corrections:

1. On page 47455, in the second column, in the second paragraph, in the eighth line, "sits" should read "site".

2. On page 47456, in the first column, in the third complete paragraph, in the first line, "of" should read "for".

3. On the same page, in the third column, in the first complete paragraph, in the 12th line, "vitreous" was misspelled.

4. On page 47457, in the first column, in reference 8, in the first line, "Johnson, S. R." should read "Johnson, S. H.".

BILLING CODE 1505-01-D

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Expected Retirement Age

Correction

In rule document 87-28767 beginning on page 47562 in the issue of Tuesday, December 15, 1987, make the following correction:

PART 2619--[CORRECTED]

On page 47563, in Appendix D, in Table I-88, the column headings did not appear correctly. The table is corrected to read as follows:

TABLE I-88—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with valuation dates after Dec. 31, 1987, and before Jan. 1, 1989]

Participant reaches NRA in year—	Participant's Retirement Rate Category is—			
	Low [1] if monthly benefit at NRA is less than—	Medium [2] if monthly benefit at NRA is—		High [3] if monthly benefit at NRA is greater than—
		From—	To—	
1989	297	297	1,250	1,250
1990	307	307	1,295	1,295
1991	317	317	1,337	1,337
1992	326	326	1,374	1,374
1993	333	333	1,404	1,404
1994	341	341	1,435	1,435
1995	348	348	1,467	1,467
1996	356	356	1,499	1,499
1997	364	364	1,532	1,532
1998 or later	372	372	1,566	1,566

[1] Table II-A.
[2] Table II-B.
[3] Table II-C.

BILLING CODE 1505-01-D

Federal Register

Monday
December 28 1987

Part II

Federal Trade Commission

16 CFR Part 455

Used Motor Vehicle Trade Regulation Rule; Request for Public Comment on Petition for Exemption by the State of Maine; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR Part 455

Used Motor Vehicle Trade Regulation Rule; Request for Public Comment on Petition for Exemption by the State of Maine

AGENCY: Federal Trade Commission.

ACTION: Request for public comment on petition by State of Maine for statewide exemption from the trade regulation rule.

SUMMARY: The Federal Trade Commission seeks public comment on the request by the State of Maine for exemption from the Used Motor Vehicle Trade Regulation Rule, 16 CFR Part 455 (1987). Maine filed its petition pursuant to § 455.6 of the Used Car Rule. If granted, the exemption would require Maine used vehicle dealers to use the disclosure label prescribed by a Maine administrative regulation in the place of the Buyers Guide required by the FTC Rule. Additionally, the Commission would be precluded from enforcing the FTC Rule in Maine for as long as Maine administers and enforces effectively its law. The Commission invites public comment on the Petition generally and on certain questions specifically.

DATES: Written comments will be accepted until January 27, 1988.

ADDRESS: Written comments should be addressed to the Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, DC 20580. Comments should be captioned: "Maine Petition for Statewide Exemption from the Used Car Rule—FTC File No. 215–54."

Copies of the Petition can be obtained from the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, DC 20580. (202) 326–2222.

FOR FURTHER INFORMATION CONTACT: Matthew D. Gold (202/326–3019) or Joyce E. Plyler (202/326–3021), Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To facilitate public consideration and comment, the Commission has summarized the information in the Maine Petition. In addition, the Commission has outlined the exemption process it intends to follow.

Outline

1. Introduction

On June 1, 1987, the Maine Secretary of State ("Petitioner") filed a petition for a statewide exemption (the "Petition") pursuant to § 455.6 of the Commission's Used Motor Vehicle Trade Regulation Rule (the "FTC Rule" or the "Used Car Rule"), 16 CFR Part 455 (1987).[1] If granted, the exemption would require Maine used vehicle dealers to use the disclosure label prescribed by a Maine administrative regulation in the place of the Buyers Guide required by the FTC Rule.[2] Additionally, the Commission would be precluded from enforcing the FTC Rule in Maine for as long as Maine administers and enforces effectively its law.[3]

In this notice, the Commission publishes the procedures it will use in its consideration of the Maine Petition. These procedures are patterned after the procedures used in the Commission's consideration of the exemption petition from the State of Wisconsin.[4] This notice also contains a provision-by-provision comparison of the Maine regulation and the FTC Rule. This comparison is intended to highlight differences in the two regulations that are relevant to the Commission's standards for granting exemptions. Finally, the notice also contains specific questions that the Commission believes will focus public comment on the important issues involved in the Commission's consideration of the Petition.

II. Exemption Standards and Procedures

The FTC Rule includes a specific provision, § 455.6, setting forth the Commission's standards for exempting a state from the Rule's requirements. Section 455.6 states:

(a) If, upon application to the Commission by an appropriate state agency, the Commission determines, that—

(1) There is a state requirement in effect which applies to any transaction to which this rule applies; and

(2) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this Rule; then the Commission's Rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the state administers and enforces effectively the state requirement.

(b) Applications for exemption under Subsection (a) should be directed to the Secretary of the Commission. When appropriate, proceedings will be commenced in order to make a determination described in Subsection (a), and will be conducted in accordance with Subpart C of Part 1 of the Commission's Rules of Practice.

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[1] The Maine Petition has been placed on the public record and is identified as Document 100–8 in FTC File No. 215–54. It and other documents referred to in this notice are available for inspection at the Office of the Secretary of the Federal Trade Commission, at the above address.

[2] The Buyers Gude is the standard disclosure form which must be affixed to a side window of each used vehicle offered for sale by a dealer to a consumer, under § 455.2 of the FTC Rule. Both the FTC and the Maine disclosure forms are printed at the end of this notice.

[3] Statement of Basis and Purpose for the Used Car Rule, 49 FR 45,692, 45,711 (Nov. 19, 1984) (hereinafter referred to as the "SBP").

[4] 50 FR 21,269 (May 23, 1985).

The Commission determines the appropriate relationship between the FTC Rule and state law on a case-by-case basis in an exemption proceeding conducted pursuant to § 1.16 of the Commission's Rules of Practice.[5] Section 1.16 of the Commission's Rules of Practice is a general provision allowing any person to whom a trade regulation rule would otherwise apply to petition the Commission for an exemption, but it offers no specific guidance to state agencies seeking statewide exemption.

However, final staff guidelines for state exemption petitions have been developed for the Commission's Trade Regulation Rule Concerning Funeral Industry Practices (the "Funeral Rule"), 16 CFR Part 453 (1987).[6] Because the Funeral Rule has a state exemption provision that is virtually identical to that included in the FTC Rule,[7] the Commission followed the Funeral Rule guidelines when considering the Wisconsin petition for exemption from the FTC Rule.[8] Maine followed these guidelines in submitting its petition.

The state exemption guidelines recommend that a complete application be comprised of the following information: (1) A copy of all relevant state statutes, rules, regulations and court cases; (2) a statement comparing the state law with the Commission's rule, on a provision-by-provision basis, which explains how the state law applies to the same transactions as does the Commission's rule and how the state law affords an overall level of protection to consumers that is equal to or greater than that afforded by the Commission's rule; (3) information sufficient to demonstrate the state's willingness and ability to administer and enforce its law effectively; and (4) a statement from the state's attorney general that the state law provides adequate authority to support the rules, regulations, conclusions, interpretations, policies and procedures described in the statement submitted in the application for the statewide exemption from the Commission's rule. The state exemption guidelines also state that once a complete application for statewide exemption has been received, staff will place the materials on the public record and recommend that the Commission publish a notice in the **Federal Register** allowing a period of time for interested persons to submit written comments. This notice invites interested parties to submit comments on the Maine Petition. The Commission will place written comments on the public record.

The Commission's staff will also place on the public record any factual information received orally on which it relies in making its recommendation to the Commission concerning whether to grant the exemption. Moreover, under the procedures discussed in the Statement of Basis and Purpose,[9] this exemption proceeding will be subject to the restrictions on *ex parte* communications applicable to a section 18 rulemaking "adapted in such form as may be appropriate to the circumstances of the particular proceeding."[10] The restrictions on *ex parte* communications applicable to a Section 18 rulemaking proceeding are set forth in 16 CFR 1.18(c) (1987). In brief, they require that a communication on the merits to a Commissioner from a person outside the Commission be placed on the public record of the proceeding, and that a communication on the merits to a Commissioner from the rulemaking staff be disclosed on the record to the extent that it contains any fact not already on the record.[11]

III. The Petition

A. Contents

As noted earlier, the Maine Secretary of State filed its Petition requesting a statewide exemption from the FTC Rule on June 1, 1987. Included in this Petition are the following materials: (1) A provision-by-provision comparison of the FTC Rule and the Maine Rule (Appendix A); (2) a copy of the Maine Rule, which was adopted on January 22, 1987, with an effective date of twenty-one days after a statewide exemption is granted (Appendix B); (3) a copy of the Maine window label (Buyer's Guide) required by the Maine Rule (Appendix C); (4) copies of the relevent Maine statutes, including the Maine Used Car Information Act ("MUCIA"),[12] the Maine Unfair Trade Practices Act,[13] and the Maine Annual Car Inspection Law[14] (Appendix D); (5) a discussion of Maine's willingness and ability to enforce the MUCIA and the Maine Rule (Appendix E); and (6) a letter from Maine Attorney General James E. Tierney stating that Maine law provides adequate authority to support the Maine Rule, as well as the conclusions, interpretations, policies and procedures described in the Petition and in the Appendices (Appendix F).

B. Does the Maine Rule Apply to the Same Transactions to Which the FTC Rule Applies?

This section compares the definitions which determine the scope of the FTC Rule with their counterparts in the Maine Rule. Whether a transaction is covered by the FTC Rule depends upon three factors: (1) the identity of the person or entity offering the vehicle for sale;[15] (2) the identity of the person or entity to whom the vehicle is offered for sale;[16] and (3) the characteristics of the vehicle being offered for sale.[17]

1. Definition of "Dealer"

Section I(A)(2) of the Maine Rule defines "dealer" as "any person or legal entity which meets the [definition of that term at] M.R.S.A. 1471, sub-section 2." That definition "includes a natural person, firm, corporation, partnership and any other legal entity that is engaged in the business of selling, offering for sale, or negotiating the sale of used motor vehicles, except auctioneers licensed by the Secretary of State * * *"[18] Also excluded from this definition are "departments and agencies of the State when selling, offering for sale or negotiating the sale of used state-owned motor vehicles."[19]

The FTC Rule definition of "dealer," at § 455.1(d)(3), includes "any person or business which sells or offers for sale a used vehicle after selling or offering for sale five (5) or more used vehicles in the previous twelve months, but does not include a bank or financial institution, a

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[5] *Id. See also* 16 CFR 1.16 (1987).

[6] 50 FR 12521 (March 29, 1985).

[7] *See* 16 CFR 453.9 (1987).

[8] The Staff Compliance Guidelines for the Used Car Rule, 52 FR 18552 (May 18, 1987); 52 FR 19845 (May 28, 1987), recommended that states interested in filing a petition for statewide exemption from the Used Car Rule consult the Funeral Rule state exemption guidelines, 52 FR 18561.

[9] 49 FR at 45,711.

[10] 16 CFR 1.26(b) (1987).

[11] *See also* 50 FR at 12,522.

[12] Me. Rev. Stat. Ann. tit. 10, Secs. 1471–1477 (1980 & Supp. 1985–1986). The MUCIA was amended in 1985 to include, *inter alia*, provisions requiring Maine used vehicle dealers to affix a written disclosure statement to each used vehicle offered for sale, and authorizing the Division of Motor Vehicles to promulgate rules implementing this requirement. *See* Secs. 1475(1); 1475(2)(G). The Maine Rule was promulgated under this authority. Section 1475(2)(G) of the MUCIA specifically authorizes the Division of Motor Vehicles to include on its uniform disclosure sticker any information contained on the FTC Buyers Guide, unless such information were to conflict with information required by the MUCIA.

[13] Me. Rev. Stat. Ann. tit. 5, secs. 207–14 (1980 & Supp. 1985–1986.

[14] Me. Rev. Stat. Ann. tit. 29, secs. 2501–25 (1980 & Supp. 1986).

[15] The term "dealer" is defined in § 455.1(d)(3) of the FTC Rule.

[16] The term "consumer" is defined in § 455.1(d)(4) of the FTC Rule.

[17] The terms "vehicle" and "used vehicle" are defined in §§ 455.1(d)(1) and (2) of the FTC Rule, respectively.

[18] Me. Rev. Stat. Ann. tit. 10, Sec. 1471(2) (Supp. 1986).

[19] Id.

business selling a used vehicle to an employee of that business, or a lessor selling a leased vehicle by or to that vehicle's lessee or to an employee of the lessee."

The Maine Rule's definition of "dealer" differs from that found in the FTC Rule in several respects. First, there is no requirement that a minimum volume of vehicles be offered for sale before the Maine Rule would apply. Instead, one must be "engaged" in the used car business to be considered a dealer in Maine. A recent case, however, indicates that the number of vehicles necessary to meet this threshold may be even lower than the FTC Rule's minimum. [20]

The Maine Rule also specifically excludes auctioneers from the definition of "dealer." However, while the auction house itself is excluded, dealers selling their vehicles through auctions are required to comply with the Maine Rule.

The Maine Rule also differs in that it covers all sales by banks or financial institutions, leasing companies, or other businesses. The FTC Rule specifically excludes sales by banks or financial institutions and some sales by leasing companies and businesses.

2. Definition of "Consumer"

Section I(A)(1) of the Maine Rule defines "consumer" as "any person who is not a used vehicle dealer." This language tracks exactly the definition of "consumer" in the FTC Rule. The Maine Rule also includes within its definition any person defined as a "purchaser" in the MUCIA. This MUCIA definition includes "any person who has obtained ownership of a used motor vehicle from a dealer by transfer, gift or purchase." [21] Although the Maine Rule definition explicitly excludes dealers, the "General Duty" clause, section 1(C)(1) of the Maine Rule, requires the posting of the Maine Buyer's Guide prior to offering for sale used vehicles "to a consumer or another dealer." [22] The MUCIA also appears to include dealers. In any event, the Maine Rule definition is at least as inclusive as that found in the FTC Rule.

3. Definition of "Motor Vehicle"

Section I(A)(5) of the Maine Rule specifically incorporates the definition of "motor vehicle" found in the MUCIA. [23] That definition includes "any self-propelled vehicle designed primarily to transport not more than 14 individuals, except motorcycles * * * and any vehicles operated exclusively on a rail or rails. This definition is intended to include motor trucks that have a gross vehicle weight of not more than 10,000 pounds * * *."

The FTC Rule definition of "vehicle," at § 455.1(d)(1), also excludes motorcycles, but includes motorized vehicles with a gross vehicle weight of less than 8500 pounds, a curb weight of less than 6000 pounds, and a frontal area of less than 46 square feet.

These definitions are substantially similar. Any vehicle included in the FTC Rule definition is included in the Maine Rule's definition. The Maine Rule definition is slightly more inclusive in that it also covers vehicles with gross vehicle weights of between 8500 and 10,000 pounds.

4. Definition of "Used Vehicle"

The Maine Rule's definition of this term, found at section I(A)(8), is virtually identical to that contained in § 455.1(d)(2) of the FTC Rule, except that it expressly includes "demonstrators" or "company cars," and any vehicle that meets the definition of "reconstructible motor vehicle" in the MUCIA. [24] Although the FTC Rule does not specifically mention these types of vehicles, they are included under the Rule's definition. [25]

C. *Does the Maine Rule Provide an Overall Level of Protection to Consumers Which is as Great as or Greater than that Provided by the FTC Rule?*

This portion of the notice compares the Maine Rule with the FTC Rule on a provision-by-provision basis. This discussion will follow the format of the FTC Rule.

1. Section 455.1—General Duties of Used Vehicle Dealers

Section 455.1(a) of the FTC Rule states that the following acts or practices are deceptive when committed by used vehicle dealers offering for sale used vehicles in or affecting commerce: (1) misrepresenting the mechanical condition of a used vehicle; (2) misrepresenting the terms of any warranty; and (3) representing that a used vehicle is sold with a warranty when that is not true. Section 455.1(b) of the Rule further states that the following acts or practices are unfair when committed by used vehicle dealers offering for sale used vehicles in or affecting commerce: (1) Failing to disclose, prior to sale, that a used vehicle is sold without a warranty; and (2) failing to make available, prior to sale, the terms of any written warranty offered in connection with the sale of a used vehicle. However, a violation of one of these Sections, in and of itself, would not constitute a violation of the FTC Rule. Section 455.1(c)(3) of the FTC Rule states that "[i]f a used vehicle dealer complies with the requirements of §§ 455.2 through 455.5 of this part [proper preparation and display of the Buyers Guide], the dealer does not violate this Rule."

In terms of enforcement, therefore, violations of §§ 455.1(a) and (b) of the FTC Rule would be actionable under Section 5 of the FTC Act, [26] rather than under the Rule. The comparable provisions in the Maine Rule, sections I(B)(1) and I(B)(2), differ in that violations would be actionable under the Maine Rule itself. Therefore, unlike the case in the FTC Rule, civil penalties would be available for violations of these sections.

These "general duty" sections of the Maine Rule also differ in that only written misrepresentations are prohibited. The FTC Rule does not distinguish between written and oral misrepresentations. The Maine Rule, however, does note that verbal misrepresentations may be a violation of Maine common law or statutory law, such as the Maine Unfair Trade Practices Act or the Maine Uniform Commercial Code. [27]

2. Section 455.2—Buyers Guide

(a) *Format.* Both the FTC Rule and the Maine Rule require dealers to complete and display a disclosure form on a side window of each used vehicle offered for sale to consumers. [28] Both laws specify the exact format of the disclosure form. The provisions of the Maine Rule regarding format and display of the Maine Buyer's Guide are virtually identical to the comparable provisions in the FTC Rule. [29] Additionally, the

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[20] *See Tanguay* v. *Seacoast Tractor Sales, Inc.*, 494 A.2d 1364 (Me. 1985). Maine's Supreme Judicial Court held that a seller of at least one dozen vehicles over a twenty-year period qualfied as a "dealer" under the MUCIA definition. *Id.*

[21] *See* Me. Rev. Stat. Ann. tit. 10, sec. 1471, subsection 6.

[22] James McKenna of the Maine Attorney General's Office confirmed that the intent of the Maine Rule is to include sales to dealers within its scope.

[23] Me. Rev. Stat. Ann. tit. 10, sec. 1471, subsection 4.

[24] *See* Me. Rev. Stat. Ann. tit. 10, sec. 1471, subsection 6-A. This definition includes "a used motor vehicle which does not meet the inspection standards as set forth in Title 29, section 2502, and which is sold, offered for sale or negotiated for sale to a person other than another dealer for the purpose of transportation after repair or rebuilding."

[25] The SBP Specifically states that such vehicles are intended to be included within the Rule's coverage. *See* 49 FR 45707.

[26] 15 U.S.C. 45 (1978 & Supp. 1987).

[27] *See* Section I(B)(1), n. 1., of the Maine Rule.

[28] Maine's sticker is called a "Buyer's Guide," while the FTC's sticker is called a "Buyers Guide" (no apostrophe).

printing specifications for the Maine Buyer's Guide are designed to create a window form that is very similar in appearance to the FTC Buyers Guide. The Maine Rule, however, calls for a minimum size of 12½ inches high by 8½ inches wide, as opposed to the FTC Rule's minimum of 11 inches by 7¼ inches. The additional disclosures on the Maine Buyer's Guide necessitate its larger size.

(b) *Text of Window Stickers—Similar Provisions.* All of the disclosures required on the FTC Rule Buyers Guide are also required on the Maine Rule Buyer's Guide. However, in some instances, the wording of these disclosures on the Maine window sticker varies from the language used on the FTC sticker. Following is a brief comparison of FTC Rule Buyers Guide disclosures with the equivalent Maine Rule Buyer's Guide disclosure.

(i) *The "As Is" Disclosure.* Section 455.2(b)(1)(i) of the FTC Rule requires dealers to check a large box next to the words "AS IS—NO WARRANTY" when offering a used vehicle for sale on that basis. This disclosure is printed in conspicuously large type. The purpose of this disclosure is to inform consumers that the dealer will not be responsible for post-purchase repairs to the vehicle.[30] The FTC Buyers Guide includes an explanation of the meaning of the words "as is" immediately underneath the words "AS IS—NO WARRANTY."[31]

In Maine, the MUCIA states that, except in the case of reconstructible motor vehicles,[32] a dealer may not sell or transfer a vehicle unless it meets the state inspection standards and displays a valid inspection sticker issued during the thirty days prior to the date of sale or transfer. Consequently, section 1(C)(2)(f) of the Maine Rule requires Maine dealers to check a box on the Buyer's Guide next to the words "WARRANTY OF INSPECTABILITY," unless the vehicle is a reconstructible motor vehicle. Directly underneath the box is a one-sentence explanation of this state-required warranty.

Under section 1(C)(2)(g) of the Maine Rule, if the dealer chooses to offer the vehicle without an express warranty other than the state-required warranty of inspectability, the dealer must check a box next to the words "NO EXPRESS WARRANTY EXCEPT THAT VEHICLE MEETS STATE INSPECTION STANDARDS." Underneath this statement is the following explanation:

YOU WILL PAY ALL COSTS FOR ANY REPAIRS NOT RELATED TO MEETING STATE INSPECTION STANDARDS. REGARDLESS OF ANY ORAL STATEMENTS ABOUT THE VEHICLE, THE DEALER ACCEPTS NO RESPONSIBILITY FOR REPAIRS EXCEPT THOSE NECESSARY TO PASS STATE INSPECTION.

When the box next to this disclosure is checked (in addition to the box informing the consumer of the warranty of inspectability), the consumer is put on notice that the dealer's express warranty obligations extend only to the inspectability of the vehicle. A Maine dealer's minimum post-sale responsibility extends to the repair of any defect in systems or components on the state inspection "checklist," if the purchaser can show that the defect existed at the time of sale. Also, Maine dealers may choose not to disclaim state law implied warranties in addition to offering the express warranty of inspectability.

(ii) *The "Implied Warranties Only" Disclosure.* Section 455.2(b)(1)(ii) of the FTC Rule requires that an "IMPLIED WARRANTIES ONLY" disclosure be used in place of the "AS IS—NO WARRANTY" disclosure in states that limit or prohibit "as is" sales and in instances where a dealer choose to sell a used vehicle with neither an express warranty nor on an "as is" basis. This disclosure informs consumers that the dealer may be legally obligated to repair serious problems even though it did not provide an express warranty.

Section 1(C)(2)(j) of the Maine Rule contains a detailed explanation of a Maine dealer's options regarding implied warranties. Under the words "IMPLIED WARRANTIES" on the Maine Buyer's Guide are three boxes, one of which the dealer must check. The dealer must check the box next to the word "YES" if the dealer chooses not to disclaim implied warranties. If the parties enter into a service contract at the time of sale, implied warranties may not be disclaimed and the "YES" box must be checked.[33] The dealer must check the box next to the word "NO" if the dealer chooses to disclaim implied warranties.[34] If the dealer offers an express warranty, implied warranties may not be disclaimed, but they can be limited to the duration of the express warranty.[35] In this case, the dealer must mark the box next to the words "LIMITED TO DURATION OF EXPRESS WARRANTY," but only if such limitation is "conscionable."[36] There is no space on the FTC Buyers Guide for a dealer to disclose its intention to limit implied warranties to the duration of an express warranty.

Another difference between the Maine Rule and the FTC Rule regarding implied warranties is the explanation of implied warranty rights on the window stickers. The FTC Buyers Guide provides the general statement that state law implied warranties "may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle."[37] The Maine Rule Buyer's Guide, on the other hand, goes into slightly more detail, referring to both the implied warranty of merchantability and the implied warranty of fitness for a particular use.[38]

(iii) *Information About Express Warranties.* Section 1(C)(2)(h) of the Maine Rule requires dealers offering an express warranty to check a box next to the words "DEALER EXPRESS WARRANTY" on the Maine Buyer's Guide. Subsections (i)—(iv) and (vi) of section 1(C)(2)(h) of the Maine Rule track the language of § 455.2(b)(2)(i)—(b)(2)(v) of the FTC Rule by requiring that the following warranty terms be disclosed:

—Whether the warranty is full or limited;[39]

—Which systems are covered by the warranty;[40]

—The duration of the warranty;[41] and

—The percentage of repair costs to be paid by the dealer.[42]

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[29] *Compare* sections I(C)(1)(a) and (b) of the Maine Rule *with* 16 CFR 455.2(a)(1) and (2) (1987).

[30] SBP at 45,705.

[31] This statement reads: "You will pay all costs for any repairs. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle."

[32] *See supra* note 24.

[33] Under section 108(a) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2308(a) (1983 & Supp. 1987), implied warranties may not be limited or disclaimed if the parties enter into a service contract on the vehicle within ninety days of the time of sale.

[34] *Id. See also* Me. Rev. Stat. Ann. tit. 10, sec. 1475(2)(E).

[35] Under section 108(b) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2308(b) (1983 & Supp. 1987), a dealer could limit the duration of implied warranties to the duration of express warranties offered, so long as such a limitation is both conscionable and clearly disclosed.

[36] *See* Me. Rev. Stat. Ann. tit. 10, sec. 1475(2)(E).

[37] *See* § 455.2(B)(1)(ii) of the FTC Rule.

[38] *See* section 1(C)(2)(j) of the Maine Rule.

[39] *Compare* section 1(C)(2)(h)(i) of the Maine Rule *with* 16 CFR 455.2(b)(2)(i) (1987).

[40] *Compare* section 1(C)(2)(h)(ii) of the Maine Rule *with* 16 CFR 455.2(b)(2)(ii) (1987). *See also* Me. Rev. Stat. Ann. tit. 10, sec. 1474(3)(B)(2).

[41] *Compare* section 1(C)(2)(h)(ii) of the Maine Rule *with* 16 CFR 455.2(b)(2)(iii) (1987). *See also* Me. Rev. Stat. Ann. tit. 10, sec. 1474(3)(B)(1).

[42] *Compare* section 1(C)(2)(h)(iv) of the Maine Rule *with* 16 CFR 455.2(b)(2)(iv) (1987).

The Maine Rule, like the FTC Rule, also gives dealers the option of disclosing whether the manufacturer's original warranty still applies.[43]

In addition to the above disclosures, the Maine Rule requires that dealers disclose a deductible, if applicable, in a space provided in the warranty section of the Maine Buyer's Guide.[44] The FTC Rule dose not contain an analogous provision.[45]

Subsection (vii) of section 1(C)(2)(h) of the Maine Rule states that if the dealer originally offers the vehicle with an express warranty but, after negotiations with the consumer, sells the vehicle with no express warranty, it should cross out the warranty disclosure on the Maine Buyer's Guide and check the box next to the "NO EXPRESS WARRANTY EXCEPT THAT VEHICLE MEETS STATE INSPECTION STANDARDS" disclosure. This section of the Maine Rule is analogous to the last two paragraphs in §455.2(b)(2) of the FTC Rule concerning how to note negotiated changes in warranty coverage on the Buyers Guides.

(iv) *Service Contract Availability.* Section 1(C)(2)(i) of the Maine Rule requires dealers to check the box next to the words "SERVICE CONTRACT" if it chooses to offer such a contract. This section tracks § 455.2(b)(3) of the FTC Rule.

(v) *Vehicle, Dealership and Complaint Information.* Section 455.2(d) of the FTC Rule requires dealers to include certain vehicle information on the Buyers Guide, including the make, model, model year and vehicle identification number. Dealers may also include their vehicle stock number. These disclosures are designed to enhance the value of the Buyers Guide as evidence of the agreement between the dealer and the consumer.[46] The Maine provision, section 1(C)(2)(a), is identical to this FTC Rule provision.

Similar to § 455.2(c) and (e) of the FTC Rule, section 1(C)(2)(m) of the Maine Rule requires dealers to disclose on the back of the Buyer's Guide the name and address of the dealership, and the name, title and phone number of the dealership employee who should be contacted if complaints arise after the sale. Unlike the FTC Rule, this section of the Maine Rules also requires that if warranty repairs are not to be performed at the dealership providing the warranty, dealers musts place the name, address and other identifying information of each facility within a radius of 50 miles of the dealer's place of business to which the vehicle may be brought for warranty service.[47]

(vi) *Statement Concerning Pre-Purchase Independent Inspection.* Near the bottom of the FTC Buyers Guide there is a required disclosure suggesting that consumers inquire about the availability of an independent, pre-purchase inspection.[48] The Maine Rule requires a similar disclosure, in larger lettering, placed toward the top of the Maine Buyer's Guide.[49]

(vii) *Spoken Promises Warning.* An identical warning against relying on spoken promises is required to be included on the top of both the FTC Buyers Guide and the Maine Rule Buyer's Guide.

(viii) *List of Major Vehicle Systems.* An identical list of the fourteen major mechanical and safety systems of an automobile and some of the major problems that can occur in these systems is required on the back of both the FTC Buyers Guide and the Maine Rule Buyer's Guide.

(c) *Text of Window Stickers—Additional Disclosures Required by Maine.* In addition to the disclosures required by the FTC Rule, the Maine Rule requires several disclosures that are not required by the FTC Rule. These additional disclosures are discussed below.

(i) *Prior Use of Vehicle.* Section 1(C)(2)(b) of the Maine Rule requires that dealers disclose, on the Buyer's Guide, "the principal use to which the vehicle was put by the former owner." This disclosure would be made in one of two ways. If the former owner used the vehicle for personal use, the dealer would check the box next to the word "PERSONAL." If the prior owner used the vehicle for other than personal use (*e.g.*, police car, daily rental car, taxi, etc.), the dealer would check the box next to the word "OTHER," and state that prior use in the space provided.

(ii) *How Vehicle Was Acquired.* Section 1(C)(2)(d) of the Maine Rule requires the dealer to disclose, on the Buyer's Guide, "the type of sale by which [the dealer] acquired the vehicle." This disclosure would be made in one of two ways. If the dealer obtained the vehicle through a trade-in, it would check the box next to the word "TRADE-IN." If the dealer obtained the vehicle through another method, such as a sheriff's sale, repossession, auction, etc., it would check the box next to the word "OTHER," and state that method on the space provided.

(iii) *Known Mechanical Defects or Prior Substantial Damage.* Section 1(C)(2)(c) of the Maine Rule requires that dealers disclose, on the Buyer's Guide all mechanical defects known at the time of sale, even if the dealer has fully repaired the defect.[50] Further, section 1(C)(2)(e) of the Maine Rule requires dealers to disclose on the Buyer's Guide "any and all substantial damage that the vehicle has sustained that is known to [the dealer], including damage to the body or engine from collision, fire, water or other causes. [The dealer] must make this disclosure even if [the dealer has] fully repaired the damage." [51] In large letters under the spaces for this disclosure and the disclosure of known mechanical defects is the following statement: "IMPORTANT: THESE ARE THE ONLY PROBLEMS KNOWN TO THE DEALER. ASK IF YOU MAY GET AN INDEPENDENT INSPECTION BEFORE PURCHASE.

The FTC Rule Buyers Guide also contains (at the bottom) a statement suggesting that the consumer request an independent inspection of the vehicle prior to purchase. The Maine Rule's disclosure is in larger type than its FTC Rule counterpart. It is placed adjacent to the mechanical defects and prior substantial damage disclosures on the Maine Rule Buyer's Guide.

(iv) *Availability of Prior Owner's Name and Address.* Section 1(C)(2)(k) of the Maine Rule would require dealers to place a disclosure at the bottom of the Buyer's Guide informing the consumer that the previous owner's name and address is available from the dealer upon request.[52]

(v) *Whether Vehicle Has Been Returned to Manufacturer.* Section 1(C)(2)(l) of the Maine Rule requires dealers to disclose, on the reverse side of the Maine Rule Buyer's Guide,

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[43] *Compare* section (1)(C)(2)(h)(vi) of the Maine Rule *with* 16 CFR 455.2(b)(2)(v) (1987).

[44] *See* section (1)(C)(2)(h)(v) of the Maine Rule.

[45] The staff compliance guidelines for the Used Car Rule suggest that dealers disclose the existence of a deductible by placing asterisks next to the percentage of parts and labor disclosures and writing an explanation of the terms of the deductible on the top line of the "systems covered/duration" portion of the Buyers Guide. *See* 52 FR at 18559, 19854.

[46] *See* SBP at 45,710.

[47] *See also* Me. Rev. Stat. Ann. tit. 10, sec. 1474(3)(A)(1).

[48] This disclosure states: "PRE PURCHASE INSPECTION: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT."

[49] This disclosure reads, in pertinent part: "ASK IF YOU MAY GET AN INDEPENDENT INSPECTION BEFORE PURCHASE." This provision is addressed further in this notice in the sections discussing disclosure of known mechanical defects and substantial damage.

[50] *See also* 10 M.R.S.A. sec. 1475(2)(C).

[51] *See also* Me. Rev. Stat. Ann. tit. 10, sec. 1475(2)(D).

[52] *See also* Me. Rev. Stat. Ann. tit. 10, sec. 1475(2)(B).

whether the vehicle has been returned to the manufacturer because of non-conformity with express warranties. If the dealer knows that the vehicle has been so returned, it must describe the non-conformities in the space provided.

3. Section 455.3—Window Stickers Given to Purchaser and Incorporated into Contract

Section 455.3(a) of the FTC Rule directs dealers to give purchasers of used vehicles a Buyers Guide that includes any agreed-upon warranty coverage. The Maine Rule contains a substantially similar provision at section 1(D)(1). Similar to § 455.3(b) of the FTC Rule, section 1(D)(2) of the Maine Rule provides that the information on the Buyer's Guide is incorporated into the contract of sale and overrides any contrary provisions in the contract of sale. This section also requires that dealers place a two-sentence disclosure in the contract of sale informing consumers of this fact.[53] This disclosure is identical to the disclosure required by § 455.3(b) of the FTC Rule. The Maine Rule, however, specifies that the diclosure be placed in 10-point bold caps, while the FTC Rule merely requires that the disclosure be placed "conspicuously" in the contract.

4. Section 455.4—Contrary Statements

Section 455.4 of the FTC Rule prohibits dealers from making any statements, oral or written, or from taking other actions which alter or contradict the disclosures required by the Rule. Further, it recognizes that dealers may negotiate with consumers over warranty coverage, but requires that the final warranty terms be identified in the contract of sale and summarized on the final Buyers Guide that is given to the consumer. Sections 1(D) (3) and (4) of the Maine Rule contain equivalent requirements.

5. Section 455.5—Spanish Language Sales

Unlike the FTC Rule, Maine Rule does not contain a requirement that dealers prepare, display, and provide a Spanish language Buyers Guide if the transaction is conducted in that language. In noting this difference, the Maine petition states that such a requirement is not necessary in the Maine Rule due to Maine's low percentage of Spanish-speaking people. According to information obtained by the Commission from the U.S. Bureau of the Census,[54] in 1980 Maine had both the lowest percentage and the lowest raw number of Spanish speaking persons among the fifty states and the District of Columbia.[55]

D. Does Maine Evidence a Willingness and Ability To Enforce its Sticker Rule?

Pursuant to 16 CFR 455.6 (1987), the final requirement for obtaining and retaining a statewide exemption from the FTC Rule is a showing that a state administers and enforces effectively the state requirement that would replace the FTC Rule. Accordingly, the Funeral Rule state exemption guidelines ask states to submit sufficient information to show a willingness and ability to enforce their laws effectively.[56] Specifically, those guidelines state that staff will consider the following information as relevant to this determination:

(1) The fiscal arrangements and funding of the state agency (or agencies) which is charged with enforcing the state law, or other information indicating that the state agency has adequate funding to properly enforce the law;

(2) The number and qualifications of persons engaged in the enforcement and administration of the state law, or other information indicating that the state has adequate qualified personnel to administer and enforce the law;

(3) The state's current or planned enforcement procedures;

(4) The state's past history of enforcement of statutes which are comparable to the Commission's rule; and

(5) The level of compliance with any state statutes or regulations governing the practices covered by the Commission's rule, insofar as this information is relevant to the state's enforcement history.[57]

Appendix E of the Maine Petition discusses enforcement of the Maine Rule, and is summarized below.

Both the Maine Department of the Attorney General and the Maine Department of Motor Vehicles enforce the provisions of the Maine Used Car Information Act, the enabling statute for the Maine Rule. A violation of the Maine Rule is a *per se* violation of the Maine Unfair Trade Practices Act, which the Maine Attorney General's office is primarily responsible for enforcing.[58] The Department of Motor Vehicles has the power to deny, suspend or revoke the license of any dealer who does not comply with the Maine Rule.[59] To qualify as a "dealer" under the licensing provisions of the Maine Code, one must comply with the disclosure requirements of the MUCIA.[60]

1. Funding and Staffing of Agencies

According to the Maine Department of the Attorney General, there are four assistant attorneys general, five paralegals, one investigator and two clearical workers assigned exclusively to consumer protection matters in the state.[61] The enforcement staff at the Department of Motor Vehicles consists of fifteen investigators and two clerical workers.[62] Additionally, there are two state police officers who conduct MUCIA inspections on a part-time basis.[63]

2. Enforcement Procedures

(a) *Department of Attorney General.* According to the Maine Petition, enforcement of the MUCIA can commence in at least two ways. First, investigators within the Consumer and Antitrust Division of the Attorney General's Office have been instructed generally to survey used car lots during their travels around the state and to submit reports of their findings to the Director of Investigations.[64] Second,

[53] This disclosure reads as follows: "The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale."

[54] June 12, 1987 Letter from Paul M. Siegel, Chief, Education and Social Stratification Branch, Polulation Division, Bureau of the Census, United States Department of Commerce, Washington, DC 20233.

[55] These data are derived from two census questions. First, the subject was asked: "Does this person speak a language other than English at home?" If the answer to that question was yes, the person was asked: "What is that language?" 2,987 Maine citizens, or 0.3% of Maine's population, answered "Yes" and "Spanish," respectively, to these questions in 1980. This data campares to 3,270,267, or 14.5% of California residents. Of course, this information does not specifically reveal the number of Spainsh-speaking people who have little or no comprehension of English, and would therefore require a Spanish language Buyer's Guide whil shopping for a used vehicle.

[56] 50 FR at 12525.

[57] *Id* The guidelines also recognize that some of this information may not be relevant or available in certain states and that each state application may differ accordingly.

[58] *See* section I(E) of the Maine Rule; Appendix E of Petition, at 1; Letter from Maine Attorney General James E. Tierney to Secretrary, Federal Trade Commission, Appndix F of Petition, at 2.

[59] *See* Me. Rev. Stat. Ann. tit. 29, sec. 343(1)(F); Me. Rev. Stat. Ann. tit. 29, sec. 350-A(F); Appendix E of Petition, at 2.

[60] *See* Me. Rev. Stat. Ann. tit. 29 sec. 343(1)(F).

[61] September 17, 1987 telephone conversation between James McKenna and Matthew Gold. Mr. McKenna stated that the yearly budget for the attorney general's office is not broken down among the various divisions, so he is unable to provide staff with a specific dollar amount representing the budget for his division.

[62] *Id.*

[63] *Id.*

[64] *See* attachment to Appendix E.

mediators in that office attempt to resolve complaints involving used motor vehicle transactions. As part of this process, the mediator determines whether the dealer in question has been making the disclosures required by both the Maine Rule and the FTC Rule. According to the Petition, repeated failure to make the required disclosures results in an unfair trade practice investigation, which may lead to an Assistant Attorney General initiating a formal enforcement action.

Each violation of the MUCIA subjects the violator to a civil penalty of between $100 and $1,000.[65] Under the FTC Act, violators of trade regulation rules may be punished by penalties of up to $10,000 per violations.[66] The Maine Rule contains a two-year statute of limitations.[67] This contrasts with the five-year statute of limitations applicable to enforcement of FTC trade regulations rules.[68] Additionally, the Maine Rule specifically provides dealers with a defense if the alleged violations are shown to be "unintentional" and "bona fide error[s]." [69] Neither the FTC Rule nor the FTC Act contains a defense based on intent.[70]

(b) *Department of Motor Vehicles.* The Department of Motor Vehicles employs investigators who enforce the disclosure requirements of the MUCIA.[71] According to the Petition, the DMV typically gives a violating dealer ten days to comply. Failure to do so results in the issuance of a civil complaint in state district court.[72]

3. History of Enforcement of the MUCIA

The mediation program of the Consumer and Antitrust Division of the Attorney General's Office has resolved 197 out of 481 complaints received since January, 1985.[73] During the past two years, that Division has conducted 59 MUCIA civil or criminal investigations, eleven of which were litigated. All eleven resulted in either a consent decree or a court injunction with penalties.[74]

4. Private Right of Action

A dealer who violates the MUCIA may be liable to the purchaser in an amount not less than $100 and not more than $1,000 in liquidated damages, in addition to costs and reasonable attorneys fees.[75] This penalty may be imposed in addition to any civil penalty awarded in a separate action brought by a state agency.[76]

IV. Requests for Public Comment

The Commission has determined that the Maine Petition contains sufficient information to initiate a proceeding on whether to grant an exemption pursuant to § 455.6 of the FTC Rule. Accordingly, the Commission requests public comment on whether to grant a statewide exemption to the State of Maine from the FTC Rule.

The following questions are designed to elicit public comment on whether the Maine Rule provides protection to consumers that is equal to or greater than that provided by the FTC Rule. To that end, commenters are encouraged to support their conclusions with factual information or data.

1. Does the Maine Rule apply to the same transactions as does the FTC Rule, and, if not, how do the differences in coverage affect the level of protection afforded to consumers in the State of Maine?

2. How does the disclosure regarding the mandatory "warranty of inspectability" on the Maine Rule Buyer's Guide affect the overall level of protection afforded to consumers by the state laws?

3. How does the disclosure regarding implied warranties on the Marine Rule Buyer's Guide affect the overall level of protection afforded to consumers by the state laws?

4. What is the impact on the overall level of protection provided to consumers by disclosures included in the Maine Rule (for example, the "prior use" and "how acquired" disclosures) but which are not included in the FTC Rule?

5. In what way does the private right of action available in Maine affect the overall level of protection provided to consumers by the state law?

6. Compared with the FTC Rule, what is the impact of the Maine Rule on the overall level of protection provided to Spanish-speaking consumers, given that the Maine Rule does not require that a Spanish-language Buyer's Guide be used if the sale is conducted in Spanish?

7. In general, do the Maine Rule and other state laws provide an overall level of protection to consumers which is as great as, or greater than, the protection afforded by the FTC Rule?

The following questions are designed to elicit public comment on whether the Petition demonstrates Maine's willingness and ability to enforce adequately its state law. To that end, commenters are encouraged to support their conclusions with factual information or data.

8. Are the sanctions available under state law sufficient to deter violations of the Maine Rule?

9. In general, has Maine demonstrated its willigness and ability to enforce the Maine Rule?

Under the Funeral Rule state exemption guidelines, additional procedures for public participation may be scheduled if necessary for a full and fair presentation of significant issues.[77] For example, the guidelines state that oral hearings may be necessary if there are significant factual issues that can be adequately presented only through an oral hearing, such as where cross-examination is necessary to present significant factual issues fully and fairly.[78] In the Commission's opinion, a determination as to whether such procedures will be necessary can not be made at this time. However, interested parties may request that the Commission schedule an oral hearing or a period for rebuttal comments.

List of Subjects in 16 CFR Part 455 (1987)

Used cars, Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

Editorial Note: This form, which appears in the Code of Federal Regulations in 16 CFR Part 455, is republished for the convenience of the reader.

BILLING CODE 6750-01-M

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[65] Me. Rev. Stat. Ann. tit. 10, sec. 1477(2).

[66] 15 U.S.C. 45(m)(1)(A) (1978 & Supp. 1987).

[67] Me. Rev. Stat. Ann. tit. 10, sec. 1477(2). The statute reads: "No action may be brought for a civil violation under this subsection more than 2 years after the date of the occurrence of the violation."

[68] 28 U.S.C. 2462 (1978 & Supp. 1987).

[69] *Id.* The statute reads: No dealer may be held liable for a civil violation under this subsection if he shows by a preponderance of the evidence that the violation was unintentional and a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error."

[70] *But see* section 45(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A) (1978 & Supp. 1987), which requires the Commission to prove "actual knowledge [of a trade regulation rule] or knowledge fairly implied on the basis of objective circumstances." The Maine Rule does not contain a specific notice requirement.

[71] Petition, Appendix E, at 2. *See also supra* text accompanying note 61.

[72] *Id.*

[73] Petition, Appendix E, at 1.

[74] *Id. See also supra* note 65 and accompanying test.

[75] Me. Rev. Stat. Ann. tit. 10, sec. 1477(3).

[76] *Id.*

[77] 50 FR at 12523, 12525–26.

[78] *Id.* at 12,525.

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE _____ MODEL _____ YEAR _____ VIN NUMBER _____

DEALER STOCK NUMBER (Optional) _____

WARRANTIES FOR THIS VEHICLE:

☐ AS IS - NO WARRANTY

YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

☐ WARRANTY

☐ FULL ☐ LIMITED WARRANTY. The dealer will pay _____% of the labor and _____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

SYSTEMS COVERED:	DURATION:

☐ SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of the time of sale, state law "implied warranties" may give you additional rights.

PRE PURCHASE INSPECTION: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

SEE THE BACK OF THIS FORM for important additional information, including a list of some major defects that may occur in used motor vehicles.

Below is a list of some major defects that may occur in used motor vehicles.

Frame & Body
- Frame-cracks, corrective welds, or rusted through
- Dogtracks—bent or twisted frame

Engine
- Oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses related to camshaft lifters and push rods
- Abnormal exhaust discharge

Transmission & Drive Shaft
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged case which is visible
- Abnormal noise or vibration caused by faulty transmission or drive shaft
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

Differential
- Improper fluid level or leakage excluding normal seepage
- Cracked or damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

Cooling System
- Leakage including radiator
- Improperly functioning water pump

Electrical System
- Battery leakage
- Improperly functioning alternator, generator, battery, or starter

Fuel System
- Visible leakage

Inoperable Accessories
- Gauges or warning devices
- Air conditioner
- Heater & Defroster

Brake System
- Failure warning light broken
- Pedal not firm under pressure (DOT spec.)
- Not enough pedal reserve (DOT spec.)
- Does not stop vehicle in straight line (DOT spec.)
- Hoses damaged
- Drum or rotor too thin (Mfgr. Specs)
- Lining or pad thickness less than 1/32 inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

Steering System
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than 1/4 inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

Suspension System
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking or functioning improperly

Tires
- Tread depth less than 2/32 inch
- Sizes mismatched
- Visible damage

Wheels
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

Exhaust System
- Leakage

DEALER

ADDRESS

SEE FOR COMPLAINTS

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer purchase (except for purpose of test-driving) is a violation of federal law (16 C.F.R. 455).

Editorial Note: This form will not appear in the Code of Federal Regulations.

USED VEHICLE BUYER'S GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE _____ MODEL _____ YEAR _____ VIN NUMBER _____

DEALER STOCK NUMBER (Optional) _____

PRIOR USE: ☐ **PERSONAL:** ☐ **OTHER** _____

HOW ACQUIRED: ☐ **TRADE-IN:** ☐ **OTHER** _____

MECHANICAL DEFECTS IF ANY KNOWN: _____

PRIOR SUBSTANTIAL DAMAGE TO BODY OR ENGINE IF ANY KNOWN:

_____

IMPORTANT: THESE ARE THE ONLY PROBLEMS KNOWN TO THE DEALER. ASK IF YOU MAY GET AN INDEPENDENT INSPECTION BEFORE PURCHASE.

☐ WARRANTY OF INSPECTABILITY

STATE LAW REQUIRES THAT THIS VEHICLE MEETS STATE INSPECTION STANDARDS AND HAS A VALID INSPECTION STICKER ISSUED WITHIN 30 DAYS OF THE SALE OF THIS VEHICLE.

☐ NO EXPRESS WARRANTY EXCEPT THAT VEHICLE MEETS STATE INSPECTION STANDARDS

YOU WILL PAY ALL COSTS FOR ANY REPAIRS NOT RELATED TO MEETING STATE INSPECTION STANDARDS. REGARDLESS OF ANY ORAL STATEMENTS ABOUT THE VEHICLE, THE DEALER ACCEPTS NO RESPONSIBILITY FOR REPAIRS EXCEPT THOSE NECESSARY TO PASS STATE INSPECTION.

☐ DEALER EXPRESS WARRANTY

☐ FULL

☐ LIMITED WARRANTY. The dealer will pay _____% of the labor and _____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under Maine law, "implied warranties" may give you even more rights and cannot be limited by the dealer while this express warranty is still in effect. For each repair the buyer will pay a deductible of $ _____

SYSTEMS COVERED:	DURATION:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

☐ SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of the time of sale, Maine "implied warranties" cannot be limited by the dealer and may give you additional rights.

IMPLIED WARRANTIES

☐ **YES** ☐ **NO** ☐ **LIMITED TO DURATION OF EXPRESS WARRANTY**

Maine's implied warranty law may give you additional rights. If the vehicle is still within its useful life and has not been abused, you may have the right to have the dealer repair defects in materials or workmanship that were not apparent when you bought the vehicle. Or you may be able to return the car if the dealer promised you it was fit for a particular use and it was not.

IMPORTANT INFORMATION

- PRIOR OWNERS NAME AND ADDRESS IS AVAILABLE FROM THE DEALER UPON REQUEST.
- SEE THE BACK OF THIS FORM FOR ADDITIONAL INFORMATION, INCLUDING A LIST OF SOME MAJOR DEFECTS THAT MAY OCCUR IN USED MOTOR VEHICLES.

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IMPORTANT NOTE: THIS FORM HAS BEEN REDUCED FROM THE 8½" x 12½" MINIMUM SIZE PRESCRIBED BY SECTION I(C) (1)(b) of the MAINE USED CAR INFORMATION ACT STICKER RULE

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Below is a list of some major defects that may occur in used motor vehicles.

Frame & Body
- Frame-cracks, corrective welds, or rusted through
- Dogtracks — bent or twisted frame

Engine
- Oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses related to camshaft lifters and push rods
- Abnormal exhaust discharge

Transmission & Drive Shaft
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged case which is visible
- Abnormal noise or vibration caused by faulty transmission or drive shaft
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

Differential
- Improper fluid level or leakage excluding normal seepage
- Cracked or damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

Cooling System
- Leakage including radiator
- Improperly functioning water pump

Electrical System
- Battery leakage
- Improperly functioning alternator, generator, battery or starter

Fuel System
- Visible leakage

Inoperable Accessories
- Gauges or warning devices
- Air conditioner
- Heater & Defroster

Brake System
- Failure warning light broken
- Pedal not worn under pressure (DOT spec.)
- Not enough pedal reserve (DOT spec.)
- Does not stop vehicle in straight line (DOT spec.)
- Hoses damaged
- Drum or rotor too thin (Mfr. Specs.)
- Lining or pad thickness less than 1/32 inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

Steering System
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than ¼ inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

Suspension System
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking or functioning improperly

Tires
- Tread depth less than 2/32 inch
- Sizes mismatched
- Visible damage

Wheels
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

Exhaust System
- Leakage

Vehicle Returned to Manufacturer.

This vehicle has _____ has not _____ been returned to the manufacturer, its agent or authorized dealer, for its non-conformity with express warranties. These non-conformities were: _____

Notice of Breach of Warranty.

If a dealer fails to perform his obligation under the warranty, the purchaser shall give the dealer written notice of such failure before the purchaser initiates a civil action in accordance with 10 MRSA § 1476. This notice must be sent by registered or certified mail to the dealer's last known business address.

_____
Dealer

_____
Address

If you have a complaint about this vehicle contact the following representative of the dealer:

_____
Name

_____
Title Phone

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer purchase (except for purpose of test-driving) is a violation of the Used Car Information Act (10 MRSA §§ 1471-1477) and the Rules promulgated by the Maine Secretary of State.

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FR Doc. 87-29153 Filed 12-24-87; 8:45 am]
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federal register

Monday
December 28, 1987

Part III

Environmental Protection Agency

40 CFR Parts 160 and 792

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and Toxic Substances Control Act (TSCA); Good Laboratory Practice Standards; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 160

[OPP-300165; FRL 3245-5]

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Good Laboratory Practice Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to expand the scope of the FIFRA Good Laboratory Practice (GLP) Standards by requiring GLP compliance for testing conducted in the field and for such disciplines of testing as ecological effects, chemical fate, residue chemistry, and, as required by 40 CFR 158.160, product performance (efficacy testing). EPA is proposing this amendment in order to ensure the quality and integrity of all data submitted to the Agency in conjunction with pesticide product registration, or other marketing and research permits. EPA is also proposing to amend the FIFRA GLPs to incorporate many of the changes made by the Food and Drug Administration (FDA) to its GLP regulations.

DATE: Submit written comments on or before March 28, 1988.

ADDRESS: Submit written comments, identified by the document control number (OPP-300165), by mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, deliver comments to: Rm. 236, CM -2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this proposed rule may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Daniel A. Helfgott, Office of Compliance Monitoring (EN-342), Rm. E-707B, 401 M St. SW., Washington, DC 20460, Telephone: (202) 382-7825.

SUPPLEMENTARY INFORMATION: Following is an index to the remainder of this preamble:

I. Introduction

A. Legal Authority

These standards are promulgated under the authority of sections 3, 5, 6, 8, 18, 24(c), and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., sections 408, 409, and 701 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., and Reorganization Plan No. 3 of 1970.

B. Background

EPA originally published enforceable FIFRA Good Laboratory Practice Standards in the **Federal Register** of November 29, 1983 (48 FR 53446), which were codified as 40 CFR Part 160. At the same time, EPA published GLP standards applicable to testing required under the Toxic Substances Control Act (TSCA, 48 FR 53922, 40 CFR Part 792). These regulations were promulgated in response to investigations by EPA and FDA during the mid-1970s which revealed that some studies submitted to the Agencies had not been conducted in accordance with acceptable laboratory practices. Some studies had been conducted so poorly that the resulting data could not be relied upon in EPA's regulatory decision-making process. For instance, some studies had been submitted which did not adhere to specified protocols, were conducted by underqualified personnel and supervisors, or were not adequately monitored by study sponsors. In some cases results were selectively reported, underreported, or fraudulently reported. In addition, it was discovered that some testing facilities displayed poor animal care procedures and inadequate record-keeping techniques. The FIFRA GLP standards specify minimum practices and procedures which must be followed in order to ensure the quality and integrity of data submitted to EPA in support of a research or marketing permit for a pesticide product.

When EPA published its final FIFRA and TSCA GLP standards in the **Federal Register** of November 29, 1983, the Agency sought to harmonize the requirements and language with those regulations promulgated by the FDA in the **Federal Register** of December 22, 1978 (43 FR 60013), and codified as 21 CFR Part 58. Differences between the two Agencies' current GLP regulations exist only to the extent necessary to reflect the Agencies' different statutory TSCA, FIFRA, and the Federal Food, Drug, and Cosmetic Act (FFDCA) responsibilities. Similar to the FDA GLP regulations, the FIFRA and TSCA GLPs delineate standards for studies designed to determine the health effects of a test substance; however, the TSCA GLPs also contain provisions related to environmental testing (i.e., ecological effects and chemical fate).

Compliance with EPA's GLP regulations has been monitored through a program of laboratory inspections and study audits coordinated between EPA and FDA. Under an Interagency Agreement originating in 1978, FDA carries out inspections at laboratories which conduct health effects testing. EPA primarily performs laboratory inspections and data audits for environmental studies.

After a thorough review of its GLP regulations and compliance program, FDA concluded that some of the provisions of the GLPs needed to be clarified, amended, or deleted in order to reduce the regulatory burden on testing facilities. Accordingly, FDA proposed revisions to its GLPs in the **Federal Register** of October 24, 1984 (49 FR 43530), which were intended to simplify the regulation without compromising study integrity. FDA's proposed revision has recently been published as a final rule in the Federal **Register** of September 4, 1987 (52 FR 33768).

EPA agrees with FDA that many provisions of the GLP regulations can be streamlined without compromising the goals of the GLPs. Therefore, EPA is proposing to amend the FIFRA GLP standards to incorporate many of the changes recently made by FDA to its GLP regulations. In addition, EPA is proposing to expand the scope of the FIFRA GLPs to include the environmental testing provisions currently found in the TSCA GLPs. EPA's proposed revision to the GLPs also extends the scope of the regulation to include product performance data (efficacy testing) as required by 40 CFR 158.160. In sum, the proposed FIFRA GLPs will allow the Agency to ensure the quality and integrity of all data

submitted in support of pesticide product research or marketing permits. In another notice in this **Federal Register**, EPA is proposing similar changes to the TSCA GLP standards.

C. Consistency With FDA GLP Regulations

It is EPA's policy to minimize the regulatory burden on the public which might arise from conflicting requirements which could be promulgated under different regulatory authorities. In keeping with this policy, the final FIFRA 1983 GLP standards, 40 CFR Part 160, followed the format and, with few exceptions, the wording of FDA's final GLP regulations, 21 CFR Part 58. Differences between the EPA and FDA GLP regulations were based upon varying needs and responsibilities under each Agency's regulatory statutes. This proposed revision to the FIFRA GLPs follows this same policy by conforming to many of the changes FDA made to its GLP regulations, published in the **Federal Register** of September 4, 1987 (52 FR 33768). EPA has varied from FDA's revised GLP regulations only when necessary due to EPA's statutory responsibilities. The most significant differences between the EPA proposal and the FDA revised GLP regulations are the scope of the testing and test systems affected.

More specifically, EPA is proposing to require compliance with the FIFRA GLPs for all studies submitted to the Agency which are intended to support pesticide product research or marketing permits. Under the current FIFRA Good Laboratory Practice regulations, and consistent with the FDA GLP regulations, this Agency only requires GLP compliance for health effects testing. However, unlike FDA, testing required by EPA in support of research or marketing permits may include ecological effects, environmental and chemical fate, and efficacy (as stipulated by 40 CFR 158.160 *Product performance data requirements*), as well as health effects testing. Therefore, in an effort to attain consistency in the quality and the integrity of all data submitted to the Agency, EPA has determined that it is necessary to expand the scope of the FIFRA GLPs to require that all types of testing which are used to obtain data in support of research or marketing permits be conducted in accordance with the proposed GLP standards.

EPA's proposed FIFRA GLP standards also vary from FDA's in their coverage of testing conducted in the field. To ensure the quality and integrity of all data submitted in support of research or marketing permits, EPA believes that GLP standards must apply whenever data collection occurs. Because many of the test data required by EPA are developed in the field, or more accurately in outdoor laboratories (i.e., ground-water studies, air monitoring studies, degradation in soil, etc.), EPA is proposing to include field testing within the scope of these regulations.

This Agency's proposed FIFRA GLPs also differ from FDA's in the scope of the requirements provided for test system care facilities, test system supply facilities, and test system care. Because testing required by FDA is focused on health testing, in which animals are the central test system, it is appropriate for FDA's GLP regulations to focus on requirements for appropriate animal care facilities (21 CFR 58.43), adequate animal supply facilities (21 CFR 58.45), and proper animal care (21 CFR 58.90). However, the broad range of testing required by EPA may involve plants, soils, and microorganisms, as well as animals, for the primary test systems. In order to ensure the quality and integrity of all data submitted to this Agency, it is proposed that § 160.43 *Animal care facilities,* § 160.45 *Animal supply facilities,* and § 160.90 *Animal care* be expanded to cover facilities, handling, and care of all test systems. Accordingly, EPA is proposing that these sections be retitled as follows: § 160.43 *Test system care facilities,* § 160.45 *Test system supply facilities,* and § 160.90 *Animal and other test system care.* Further, in most instances, EPA is proposing to replace the term "animal," which is currently used in the FIFRA GLP regulations, with the broader term "test system." Specifically, this change is proposed in §§ 160.43, 160.45, 160.81, 160.90 and 160.120. These proposed changes are further discussed in Unit I.D. of this preamble.

The remaining differences between the EPA and FDA GLP regulations are described in the preamble to this proposed rule and the preamble to the FIFRA Good Laboratory Practice Standards, published in the **Federal Register** of November 29, 1983 (48 FR 53946). EPA has coordinated this proposal with FDA and has considered comments received on the proposal to amend the FDA GLP regulations (49 FR 43530; October 29, 1984).

D. Proposed Changes to the GLP FIFRA Regulations

1. *Section 160.3 Definitions.* a. EPA proposes to define the term "carrier" to mean any material, such as feed, water, soil, nutrient material, etc., with which the test substance is combined for administration to test organisms. The term "carrier" is currently used in § 160.113 and is not defined. EPA proposes to define this term to clarify it.

b. EPA proposes to conform with the September 4, 1987, FDA GLP regulations by amending the definition of "control substance" to exclude feed and water. EPA agrees with FDA's statement regarding this change (52 FR 33769; September 4, 1987) that "the term control [substance] should be reserved for the discrete substances/articles, and vehicles other than water administered to groups of the test system to provide a basis of comparison with the test [substance]."

FDA contends that, under the current definition of "control substance," because the control group of a test system provides the basis for comparison with a test substance, any substance administered to the control group would be considered a control substance. This would mean that feed and water given to the control group of a study are considered a control substance. For instance, in studies in which the test substance or mixture is administered to the test system orally, through feed or drinking water, gavage, or injection, the feed or water is considered a control substance. As a control substance, the feed or water is subject to § 160.105(a) for substance characterization, § 160.105(b) for testing for stability and solubility, § 160.105(c) for requirements for appropriate storage, § 160.105(d) for retention of reserve samples, and § 160.107 for documentation of receipt and distribution of each batch. EPA agrees with FDA that placing these requirements on the use of feed and water as a control substance in control groups unnecessarily burdens the regulated community and is not essential for ensuring the quality and integrity of the data generated by a study.

However, under 40 CFR Part 160, feed and water used as a carrier for the test and control substances or mixtures are still covered by the applicable sections for the testing and storage of test, control, and reference substances and mixtures. For example, § 160.31(e) requires testing facility management to ensure materials are available as scheduled; § 160.45 requires that test system supply facilities shall be provided to ensure proper feed storage; § 160.81(b)(2) requires Standard Operating Procedures (SOP) for test system care, including nutrition; § 160.90(g) requires periodic analysis of feed and water to ensure that contaminants which would interfere with the study are not present; § 160.120(a)(9) requires the protocol to

describe and/or identify the diet used in the study, including the level of contaminants expected in the dietary materials.

c. EPA also proposes to modify the definition of "control substance" by adding the phrase "for no effect levels." This addition to the definition is being proposed merely to clarify the difference between the term "reference substance" and "control substance." While a control substance is used to determine a baseline comparison to no effect levels, a reference substance is used to determine a baseline comparison to an established effect level.

d. EPA proposes to add and define the terms "experimental start date" and "experimental termination date." "Experimental start date" is proposed to mean the first date the test substance is applied to the test system. Under this definition, as of the experimental start date: (1) Under proposed § 160.105(b), the stability and, if important to the conduct of the experiment, the solubility of the test, control, and reference substances would have been determined; (2) under proposed § 160.113(a)(2), the stability and, if important to the conduct of the experiment, the solubility of the test, control, and reference substance in the mixture would have been determined and; (3) under proposed § 160.120(a)(4), the proposed experimental start date would appear in the protocol.

EPA proposes that "experimental termination date" be defined as the last date on which data are collected directly from the study. Under § 160.120(a)(4) as proposed, EPA would require the proposed experimental termination date to appear in the protocol. EPA considers histopathology after scheduled terminal animal sacrifice to be carried out before the experimental termination date.

Experimental start and termination dates would be expressed as the actual calendar dates, not just time-line increments. Therefore, when determining the proposed experimental start and termination dates, as would be required by proposed § 160.120(a)(4), the submitter should consider any lag time relating to protocol approval and laboratory contracting.

e. EPA proposes to add and define the term "reference substance" to mean any chemical substance or mixture or material other than a test substance that is administered to or used in analyzing the test system in the course of a study for purposes of establishing a basis for comparison with the test substance for known effect levels. EPA proposes the use of the term "reference substance" in the revised FIFRA GLP regulations because of its common usage in environmental testing and, therefore, its proposed use in these regulations.

In this proposed GLP regulation, all the requirements provided for test and control substances would also apply to "reference substances." Accordingly, the term "reference substance" has been added wherever the term "test and control substance" appears in these standards. Specifically, the term "reference substance" is added to proposed § 160.29 (d) through (f); § 160.43(b); § 160.47(a) (1) through (3) and (b); § 160.81(b)(3); the Subpart F heading; § 160.90(c); § 160.105 (a) through (e); § 160.107; § 160.113 (a) and (b); § 160.120(a) (2), (9), and (11); § 160.185(a) (4) and (5); and § 160.195(c).

f. EPA proposes to broaden the definition of the term "study" to be consistent with EPA's proposal to amend these regulations to require GLP compliance for all testing required to be submitted to the Agency in conjunction with a pesticide product's research or marketing permit.

EPA is proposing to delete the phrase "in vivo or in vitro" from the definition of "study." The Agency still intends the requirements of these regulations to apply to "in vivo and in vitro" experiments. However, since the Agency intends these regulations to apply to all studies required to be submitted under FIFRA, including those conducted in the field, EPA feels that including the phrase "in vivo or in vitro" in the definition of "study" is too limiting.

Further, EPA is proposing to delete the term "prospectively" from the definition of "study." In this way, epidemiological studies, which could be "retrospective," will be required to be presented to the Agency in accordance with the GLP standards. EPA recognizes that data used in an epidemiological study may not have been generated in conformance with the FIFRA GLP standards, however, it is EPA's contention that the epidemiological study itself can be conducted and submitted to the Agency in accordance with the GLPs.

EPA is also proposing to delete from the current definition of "study" the following sentence: "The term does not include studies utilizing human subjects or clinical studies or field trials in animals." Again, this change is consistent with EPA's intention to require compliance with GLPs for all studies submitted to the Agency in support of a research or marketing permit for pesticide products, including biomonitoring or efficacy studies. FIFRA does not prohibit pesticide testing on humans (as long as the informed-consent conditions specified in FIFRA section 12(a)(2)(P) are met, and provided the records required by 40 CFR 169.2(j) are maintained). EPA feels that testing that is performed on humans must be conducted in accordance with the GLPs, if that data is submitted to the Agency in support of a marketing or research permit.

It is also proposed that studies designed to determine the physical or chemical characteristics of a test substance be included within the scope of these regulations. Therefore, EPA is proposing that the phrase "or to determine physical or chemical characteristics of a test substance" be deleted from the definition of the term "study." This proposed change is consistent with the definition of the term "study" as it now appears, and as it is proposed to appear, in the TSCA Good Laboratory Practice Standards at 40 CFR Part 792. However, as specified in proposed § 160.135, exclusions from certain GLP requirements are provided for studies related to determining the physical or chemical characterization of a test, control, or reference substance (e.g., studies designed to determine color, odor, physical state, melting point, pH measurement, etc.).

g. EPA proposes to incorporate the FDA definitions for "study completion date" and "study initiation date" in § 160.3. "Study completion date" is proposed to mean the date the final report is signed by the study director. EPA advises that the phrase "close of the study" as used in § 160.33(f), and the phrase "study is completed" as used in § 160.195(b)(3) both refer to the "study completion date." Consistent with this definition, as of that date: (1) Under § 160.33(f), the study director must ensure that all raw data, documentation, protocols, specimens, and final reports are transferred to the archives; (2) after this date under § 160.185(c), corrections or additions to the final report must be in the form of an amendment by the study director under the procedures specified in that section; and (3) in the applicable situations described in § 160.195(b)(3), records must be maintained for a period of at least 2 years following the study completion date.

EPA proposes to define "study initiation date" as the date the protocol is signed by the study director. EPA advises that the phrase "study is initiated" as used in § 160.31(a), and the phrase "study was initiated" as used in § 160.35(b)(1) would refer to the "study initiation date." Therefore, as of the study initiation date: (1) Under § 160.31(a), the testing facility management would designate a study

director; (2) under § 160.35(b)(1), the study would be entered on the master schedule sheet by the quality assurance unit; and (3) under § 160.120(b), after this date all changes or revisions in the protocol would be documented, signed by the study director, and dated. EPA also expects that as of the study initiation date, under § 160.31(e), the testing facility management would have ensured that personnel, resources, facilities, equipment, material, and methodologies are available as scheduled.

h. EPA proposes to replace the term "test substance or mixture" with the term "test substance." This is an editorial change which makes usage consistent in the GLP standards. The term "test substance" is proposed to be defined to include mixtures.

i. EPA proposes to expand the definition of "test system" to include chemical or physical matrices (e.g., soil or water). This proposal is consistent with the Agency's intent to expand these regulations to include environmental effects testing.

j. EPA proposes to define the term "vehicle" to mean any agent which facilitates the mixture, dispersion, or solubilization of a test substance with a carrier.

2. *Section 160.31 Testing facility management.* In conformance with the revised FDA GLP regulations, in § 160.31(b), EPA proposes to delete the requirement that the replacement of a study director must be documented as "raw data." EPA agrees with FDA that this requirement is redundant with other provisions of the GLPs. For instance, § 160.35(b)(1) states that the master schedule sheet must contain the name of the study director. As FDA notes (52 FR 33770), any replacement of the study director would be reflected on the master schedule sheet, which is already considered "raw data." Further, § 160.120(b) states that all changes in an approved protocol must be documented and signed by the study director. Replacement of the study director is considered to be a change in the approved protocol.

3. *Section 160.35 Quality assurance unit (QAU).* a. In § 160.35(a), EPA proposes to conform with the revised FDA GLP regulations by substituting the term "which" for the current phrase "composed of one or more individuals who." This change clarifies that EPA does not require the QAU to be a fixed, permanently staffed unit whose only functions are to monitor the quality of a study. The Agency is only concerned that there be a distinct separation of duties between those personnel involved with the conduct or direction of a study and those personnel performing quality assurance on the same study. Therefore, EPA does intend proposed § 160.35(a) to prohibit personnel from performing quality assurance activities on their own study.

b. In § 160.35(b)(1), EPA proposes to delete the requirement that the name of the study sponsor appear on the master schedule sheet. Instead, it is proposed that under § 160.35(b)(1) the sponsor's identity appear on the master schedule sheet. This change is being proposed to be consistent with the FDA's recent revision and to provide the regulated community the option of using an identity code on the master schedule in lieu of the sponsor's name.

EPA agrees with FDA's contention that requiring the sponsor to be identified specifically by name on the master schedule is not essential to fulfill the requirements of the GLPs or the goal of ensuring the quality and integrity of the data generated from the studies. However, while the name of the study sponsor would not be required to appear on the master schedule sheet, this information must be made available to the Agency upon request.

c. As in the revised FDA GLP regulations, EPA is also proposing to delete the requirement in § 160.35(b)(1) that the master schedule sheet contain the status of the final report. EPA agrees with FDA that this requirement is redundant in view of the other information required by § 160.35(b)(1) such as the date the experiment began and the current status of each study.

d. In conformance with the revised FDA GLP regulations, EPA proposes to modify the requirements of § 160.35(b)(3) to provide for inspections of a study on a schedule adequate to ensure the integrity of the study. This section currently specifies that the quality assurance unit must inspect each phase of a study periodically. This section also currently specifies that for studies lasting more than 6 months, quality assurance inspections shall be conducted every 3 months, and for studies lasting less than 6 months, quality assurance inspections shall be conducted at intervals adequate to ensure the integrity of the study.

The proposed changes to this section will allow the QAU the necessary latitude to adjust its monitoring activities to meet the individual problems of each study. EPA agrees with FDA's contention that an inspection of each phase of the study is not necessary to ensure that a study is being conducted properly. However, EPA also agrees with FDA that each study, no matter how short, must be inspected at least once while in progress. EPA expects that by allowing the QAU flexibility in designing a reasonable inspection schedule, the goal of ensuring the quality of the study can be best achieved.

e. Consistent with the revised FDA GLPs, EPA is proposing to delete § 160.35(e) in its entirety. Section 160.35(e) currently requires that all quality assurance records be kept in one location at the testing facility. As FDA pointed out in its October 29, 1984, proposed GLP revision, since § 160.190(b) already requires the use of archives for the orderly storage and expedient retrieval of all reports and records, the requirements of § 160.35(e) are not necessary. However, EPA maintains that all reports and records, including those of the QAU, must be easily accessible and made available to EPA and FDA inspectors when requested.

4. *Section 160.41 General.* FDA has deleted from its GLPs the requirement that the location of each testing facility be suitable to facilitate the proper conduct of studies. However, EPA is proposing that § 160.41 require that testing facilities which are not located within an indoor controlled environment be suitably located to facilitate the proper conduct of studies.

The studies FDA requires are generally conducted within the confines of a traditional indoor laboratory. Because the conditions specified within a protocol can be artificially manipulated within the traditional indoor laboratory, the location of these laboratories is generally not a factor in determining the quality of a study. Therefore, it is not necessary to ensure that a traditional indoor testing facility is suitably located to facilitate the proper conduct of the study.

However, the studies EPA requires are not necessarily conducted within the confines of the traditional indoor scientific laboratory (i.e., field studies, groundwater studies, ecological toxicity studies, etc.). EPA considers any site where testing is undertaken to generate data required by the Agency to be a testing facility. The conditions required by the protocol are not necessarily conducive to artificial manipulation in the field, or other outdoor testing facilities. Therefore, ensuring the suitability of the location of these types of testing facilities is both a valid and necessary part of EPA's GLP Standards.

5. *Section 160.43 Test system care facilities.* a. EPA is proposing to revise the title of § 160.43 from "Animal care facilities" to "Test system care facilities". The proposed heading for § 160.43 more adequately reflects the

Agency's intent to specify facility requirements for the care of chemical or physical matrices (e.g., soil or water), plants, and microorganisms, as well as animals. Accordingly, the Agency is proposing to further modify § 160.43 by incorporating the term "test system" when facility requirements should extend beyond "animal" care.

Consistent with the Agency's intent stated above, paragraphs (a)(1), (a)(2), (d), (e), (f), (g), and (h) in proposed § 160.43 have been added or modified in order to ensure proper care facilities are provided for the additional test systems covered by the expanded section.

b. EPA proposes to modify § 160.43(a) to allow testing facilities to provide for isolation areas rather than quarantine areas. This change is consistent with the proposal to modify § 160.90(b) to allow "isolation" of newly received animals rather than require "quarantine" [See Unit I.D. of this preamble for a discussion of proposed § 160.90(b)].

c. In § 160.43(c), EPA proposes to delete the requirement that separate areas be provided in all cases for the diagnosis, treatment, and control of test system diseases. Instead, it is proposed that such separate areas be provided "as appropriate." This proposal is consistent with the September 4, 1987, revised FDA GLP regulations.

EPA has proposed this modification in order to allow laboratories the option of disposing of diseased animals and other test systems without also bearing the expense of maintaining separate areas in testing facilities for diagnosis, treatment, and control of disease. Additionally, EPA recognizes that the diagnosis and treatment requirements of § 160.43(c) may not be appropriate when dealing with such test systems as soil, plants, or microorganisms. However, if the decision is made not to dispose of the test system, then test system care facilities, as specified in proposed § 160.43(c), must be provided.

d. EPA proposes to conform to the revised FDA GLPs by deleting § 160.43(e) in its entirety. Currently, § 160.43(e) requires test system facilities to be designed, constructed, and located so as to minimize disturbances which may interfere with the study. EPA agrees with FDA that this provision is already adequately covered in § 160.41, which requires that facilities be of suitable size, construction, and, for outdoor testing facilities, location to facilitate the proper conduct of the study.

6. *Section 160.45 Test system supply facilities.* a. EPA proposes to expand the scope of § 160.45 to require that supply facilities necessary for environmental testing be provided when appropriate.

b. Consistent with the proposed expanded scope of this section, EPA is also proposing to retitle § 160.45, from "Animal supply facilities" to "Test system supply facilities."

c. EPA also proposes to modify § 160.45 to state "Perishable supplies shall be preserved by appropriate means." This change is being proposed to conform with the revised FDA GLPs and recognizes that there are a variety of acceptable storage and preservation procedures available besides refrigeration. Depending on the stability characteristics of the perishable material, acceptable storage and preservation methods may include desiccation, room temperature-low humidity, and constant temperature-low humidity.

d. EPA also proposes to delete the phrase "or feed" from the last sentence of § 160.45. Both EPA and FDA consider "feed" to be a "supply." Therefore, the use of the word "feed" in § 160.45 is redundant.

7. *Section 160.49 Laboratory operation areas.* a. EPA proposes to conform with FDA's revised GLP regulations by deleting paragraph (b) from § 160.49, adding the phrase "and specialized" after the word "routine" and before the word "procedures," and deleting the qualifying phrase "including specialized areas for performing activities such as aseptic surgery, intensive care, necropsy, histology, radiography, and handling of biohazardous materials."

Paragraphs (a) and (b), as currently worded, describe activities which require that separate laboratory space be provided. As FDA noted in its proposal to modify its corresponding section (49 FR 43532), the list of activities that currently appears in paragraphs (a) and (b) is not all inclusive and is not essential for the clarity of these sections. Further, by adding the phrase "and specialized," the proposed new paragraph will encompass all activities now listed in paragraphs (a) and (b).

b. In § 160.49, EPA proposes to add the phrase "and other space" after the words "laboratory space" and before the word "shall." As discussed in Unit I.C. of this preamble, this change to § 160.49 is being proposed to reflect that testing does not necessarily take place within the confines of a traditional indoor laboratory. Proposed § 160.49 would require that there be enough space provided to perform the procedures required by the protocol Wherever testing takes place (i.e., indoor laboratory or field station).

8. *Section 160.53 Administrative and personnel facilities.* As in the revised FDA GLP regulations, EPA proposes to delete § 160.53 in its entirety. EPA agrees with FDA that the requirements of this section are not necessary for achieving the goals of the FIFRA GLP standards.

9. *Section 160.61 Equipment design.* In § 160.61, EPA proposes to delete the phrase "Automatic, mechanical, or electronic" from the beginning of the first sentence. EPA agrees with FDA that the deletion of these qualifying terms provides for a more general interpretation of the word "equipment."

10. *Section 160.63 Maintenance and calibration of equipment.* a. Consistent with the FDA GLPs, EPA is proposing to amend § 160.63(b) to state that standard operating procedures (SOPs) for remedial action for equipment, in the event of failure or malfunction of equipment, need only be established when "appropriate." This change acknowledges that laboratories may choose to discard rather than repair equipment, and in such cases SOPs which delineate remedial action are not necessary.

b. EPA is also proposing to conform to the revised FDA GLP regulations by deleting from § 160.63(b) the provision that copies of the SOPs shall be made available to laboratory personnel. EPA still believes that laboratory personnel must have access to laboratory SOPs; however, since this requirement is clearly stated in § 160.81(c), EPA considers the inclusion of this requirement in § 160.63(b) to be redundant.

11. *Section 160.81 Standard operating procedures.* a. In § 160.81(b) (1), (2), (6), (7), and (12), EPA is proposing to replace the term "animal" with the term "test system." As discussed previously in this preamble, this modification is consistent with the broad scope of test systems which may be used in testing undertaken in support of a pesticide product research or marketing permit.

b. In § 160.81(b)(5), EPA is proposing to require that SOPs be established for tests wherever the testing is undertaken, including those conducted in the field. Accordingly, it is proposed that § 160.81(b)(5) read "Laboratory or other tests" (see discussion of "field testing" in Unit I.C. of this preamble).

c. In conformance with FDA's revised GLP regulations, EPA is proposing to delete the list of examples for laboratory manuals and SOPs required to be made immediately available under § 160.81(c). EPA still intends that laboratory areas must have immediately available manuals and SOPs for laboratory procedures being performed. This requirement still includes toxicology, histology, clinical chemistry,

hematology, teratology, and necropsy, if applicable. However, this list is not all inclusive and is too broad to serve as a useful guide. For example, this requirement also includes SOPs for the maintenance, repair, and calibration of equipment as described in § 160.63(b).

d. EPA is also proposing to amend the language of § 160.81(c) to clarify that the requirement of this section also applies to field testing facilities. Therefore, it is proposed that § 160.81(c) will read, "Each laboratory *or other study* area shall have immediately available manuals and standard operating procedures relative to the laboratory or field procedures being performed."

12. *Section 160.90 Animal and other test system care.* a. EPA is proposing to retitle § 160.90 from "Animal care" to "Animal and other test system care". As previously stated, testing required by EPA may involve plants, soils, microorganisms, and other test systems, in addition to animals. The proposed title to § 160.90 reflects the broader scope of this Agency's regulatory responsibilities, these regulations, and this section, to provide for the quality and integrity of all data submitted in support of pesticide product research and marketing permits.

Consistent with the Agency's proposal stated above, paragraphs (b), (d), (e)(1), (f), (g), and (j) in proposed § 160.90 have been added or modified in order to ensure the proper care of all test systems used in a study.

b. EPA proposes to modify § 160.90(b) to provide for the evaluation of a test system's health status, or the appropriateness of the test system for the study, according to acceptable "scientific practice." This section, as proposed, will still require that newly received animals must have their health status evaluated according to acceptable veterinary medical practices. However, EPA recognizes that it may not be appropriate to evaluate the health status of certain test systems (e.g., soil or water) or to require that a plant, microorganism, soil, or water be evaluated according to acceptable veterinary medical practice to determine their appropriateness for a study. EPA is only concerned that test systems used in a study are free of any disease or condition which may interfere with the purpose or conduct of the study, and that the proper precautions, as stated in § 160.90(b), are taken to comply with this requirement.

c. Additionally, EPA is proposing to modify § 160.90(b), to require "isolation" rather than "quarantine" of newly received animals. This proposal is consistent with FDA's revision to its GLPs.

As previously stated, the intent of § 160.90(b) is to prevent the entry of unhealthy or inappropriate test systems into the study, as required by § 160.90(c). Currently, § 160.90(b) provides that this intent be achieved through "quarantine." However, the term "quarantine" suggests a rigid set of procedures, including a mandatory holding period, a specific list of diagnostic procedures, and the use of specialized facilities and test system care practices, which may be an unnecessary burden to industry.

EPA agrees with FDA's conclusion, discussed in the preamble to its revised GLPs (52 FR 33775; September 4, 1987), that isolation and evaluation of health status are sufficient precautions against contamination of test systems and, therefore, fulfill the intent of this section. FDA further states that such a revision would provide laboratories the flexibility to develop isolation and health status evaluation procedures best suited for the age, species, class, and type of the test system, as well as the type of study to be performed.

d. EPA proposes to conform to the FDA GLPs by modifying § 160.90(c) to require isolation of diseased test systems only when necessary.

Currently, § 160.90(c) requires that animals which contract a disease or condition shall be isolated in all cases. This requirement would in turn require that separate facilities be available for the isolation of these animals. However, as discussed in the proposal for § 160.43(c), both EPA and FDA believe that laboratories should be given flexibility in their disposition of diseased test systems. As FDA discussed in the proposed revisions to its GLP regulations (49 FR 43533; October 29, 1984), the proposed modification to § 160.90(c) will allow laboratories the option of: (1) Leaving the diseased test system in the experiment provided that the integrity of the study will not be adversely affected by this action; (2) disposing of the test system; or (3) isolating treating, and returning the test system to the study.

13. *Section 160.105 Test, control, and reference substance characterization.* a. In revised 21 CFR 58.105(a), FDA deleted the requirement that test and control substance characteristics shall be determined and documented for each batch "before the initiation of the study." This change has not been adopted by EPA in its proposed revision to § 160.105(a). However, EPA proposes to modify § 160.105(a) to require that test, control, *or reference* substance characterization be determined and documented for each batch before its use in the experiment. EPA feels that this proposed requirement is necessary because it is essential that characteristics of test, control, and reference substances be known prior to their administration or use in an experiment.

EPA's recent experience with antimony trioxide has shown that extensive analytical work was necessary prior to test initiation. Certain assumptions regarding the product's characteristics were used in the protocols for antimony trioxide testing which proved invalid. These invalid assumptions necessitated modifications to the proposed study, resulting in the delay and rescheduling of other subsequent studies. If the analytical work had preceded the toxicology studies, the studies would not have failed and modifications to the studies would not have been necessary. The Agency's conclusion is that it is better to delay study schedules than to initiate improper experimental procedures which will produce invalid results.

b. FDA has modified 21 CFR 58.105(b) to provide for the determination of the stability of the test or control substance either before the initiation of the study or through periodic analysis of each batch according to written standard operating procedures. EPA has chosen not to adopt this approach in proposed § 160.105(b) because the Agency does not agree that stability can adequately be demonstrated by periodic analysis without initial evaluation.

Further, there are many studies required by EPA where solubility of the test, control, or reference substance is of critical importance, such as aquatic toxicity studies. Therefore, EPA is proposing that solubility of the test, control, or reference substance be determined before the experimental start date if knowledge of solubility characteristics is relevant for the proper conduct of the experiment.

It is EPA's contention that both stability and solubility of the test, control, and reference substance need to be determined before the experimental start date in order to ensure proper handling and administration of the test substance to the test system. However, since the determination of the solubility of the test, control, and reference substance is not a requirement in FDA's GLP regulations, EPA is interested in receiving public comment on this issue.

14. *Section 160.113 Mixtures of substances with carriers.* a. FDA has revised 21 CFR 58.113(a)(2) to require determination of the stability of the test and control substance in a mixture, as required by the conditions of the study, either before the initiation of the study

or through periodic analysis of each batch. While EPA does not propose to modify § 160.113(a)(2) to provide the option of determining the stability of the mixture either before study initiation or through periodic analysis (see discussion for § 160.105(b)), EPA will modify this section to require stability testing only to the extent required by the conditions of the experiment. As proposed for § 160.105(b), EPA is also proposing to require that, when appropriate to the conduct of the experiment, solubility of the test, control, or reference substance in the mixture be determined in the same manner (see discussion for § 160.105(b)). Additionally, as proposed for § 160.105 (a) and (b), EPA is proposing to replace the phrase "before the initiation of the study" with the phrase "before the experimental start date" (see discussion for § 160.105(a)).

The phrase "as required by the conditions of the experiment" has been added in order to clarify that determination of stability and, if appropriate, solubility of a test, control, or reference substance in a mixture is only necessary to support the actual time of use in the experiment. Therefore, it is not necessary to provide data which illustrate long-term stability of a mixture when the actual time that the mixture is used is short-term. For example, a test, control, or reference substance in a mixture that will be used the same day it is prepared will only require data sufficient to show stability and, if appropriate, solubility for 1 day.

b. EPA proposes to add § 160.113(c) which states, that if a vehicle is used to facilitate the mixing of a test substance with a carrier, assurance shall be provided that the vehicle does not interfere with the integrity of the test.

15. *Section 160.120 Protocol.* a. In revised 21 CFR 58.120(a), FDA has replaced the qualifying phrase "but shall not necessarily be limited to" with the phrase "as applicable." EPA proposes to adopt FDA's approach with some modifications. It is proposed that the phrase "Where applicable" appear before the information specified in § 160.120(a)(9), and continue to appear before the information required by § 160.120(a)(6). The phrase "but shall not necessarily be limited to" would remain in this section.

In FDA's discussion of this proposal (49 FR 43533; October 29, 1984), concerns were expressed that some of the information required to appear in the protocol is not applicable to all types of testing. Specifically, FDA points to the information required by 21 CFR 58.120(a) (9) and (11). In 21 CFR 58.120, paragraph (a)(9) requires a description of the diet used in a study as well as solvents, emulsifiers, and/or other materials used to solubilize or suspend the test or control substance before mixing with the carrier. FDA points out that this requirement is not applicable to radiation-emitting products. Section 58.120(a)(11) specifies that the protocol shall specify dosage level, and this requirement is not applicable to implantable medical devices.

Clearly, the basis for FDA's change is to accommodate concerns that are specific to the types of testing required by FDA and do not necessarily apply to testing required by EPA. Further, EPA is concerned that placing the phrase "as applicable" in § 160.120(a) suggests that there may be cases where it is not applicable for any of the other information required by § 160.120(a) to appear in the protocol. Therefore, the phrase "as applicable" should only appear before those items which are not necessarily appropriate to appear in the protocol for certain types of testing.

For example, there may be testing required by EPA where it may not be appropriate to require a protocol to contain the information specified in § 160.120(a)(9), such as describing and/or identifying the diet of a human subject involved in exposure testing. Therefore, EPA proposes to add the phrase "Where applicable" before the information specified in proposed § 160.120(a)(9).

b. In revised 21 CFR 58.120(a)(4), FDA has deleted the requirement that the protocol contain "The proposed starting and completion dates." EPA is proposing to retain this requirement in § 160.120(a)(4), but is proposing to modify this paragraph to require, "The proposed experimental start and termination dates."

EPA believes that this information is necessary for the evaluation of a protocol, and the Agency scheduling of additional related studies and audit reviews. Section 160.120(a)(4) is related to the selected study method, laboratory, and specialist availability, and other Agency and industry priorities. Often a group of experiments are carried out in sequence, so that both start and termination dates affect subsequent study expectations and timetables. Projected experimental start and termination dates identify the normal duration for a given experiment type and reflects any special considerations that may be unique to a laboratory, anticipated analytical or methodology work, and available resources, and it may also affect pending regulatory timetables.

Given that there are hundreds of studies that EPA must track, these estimated schedules, combined with those from other studies, allow the Agency to more efficiently schedule audits and regulatory action. Further considerations are the following: (1) The availability of composite schedules for many studies may be necessary to set realistic regulatory action goals; (2) composite study schedules are evaluated to schedule audits while several studies are ongoing or recently completed, and which may all be at a given laboratory or geographic location, thus directly reducing EPA resources necessary for audit and regulatory review functions; and (3) standard business management by objectives requires intermediate calendar goals when scheduling multiple outputs, or a long-term single product. The master on-site laboratory schedule will incorporate these dates to carry out the study.

c. In 21 CFR 58.120(a)(5), FDA has deleted the requirement that the protocol contain a justification for the selection of the test system. EPA has chosen to leave this requirement in proposed § 160.120(a)(5).

Environmental studies, including both ecological effects and chemical fate, are more diverse than health effects testing. Further, details relevant to the test system design are more chemically dependent in the case of environmental effects and chemical fate testing than in the case of health effects testing. Many of the test systems in environmental studies must be modified in accordance with specific chemical characteristics. Therefore, EPA must allow a much broader range of flexibility in the nature of tests and selection of test systems. In order to fully understand the test and its results, EPA needs to have a discussion of the reasons for selection of the test system. In addition, EPA recognizes that industry may be engaged in state-of-the-art environmental testing. Under proposed § 160.120(a)(5), EPA can keep abreast of industry advances in such testing and ensure that their use of test systems is appropriate. EPA is interested in receiving public comment on whether to limit the requirement that the protocol contain a justification of the test system to environmental testing.

d. FDA has deleted from 21 CFR 58.120(a)(10) the requirement that the protocol include the route of administration and the reason for its choice. EPA has chosen to retain this requirement in proposed § 160.120(a)(10).

The chemicals regulated by FDA will usually have a predefined route of exposure. Therefore, it makes sense for FDA to eliminate the requirement to stipulate the route of administration and

the reason for its choice within the protocol. Unlike FDA, EPA is concerned with presence in or exposure to various media (i.e., air, water, soil, sediment, chemicals, etc.) and may not know in advance the routes of exposure for the chemicals it regulates. Most chemicals and products regulated by EPA do not have set routes of exposure and may even have multiple routes of exposure. Therefore, EPA must consider a wide range of possible exposure routes in its regulatory decisions. Further, the route of administration is essential to determine the effectiveness of a test system for the purposes of a specific toxicology study. The route of administration affects the real dosage rates and, therefore, affects whether the impact of the exposure of the test substance is acute or chronic.

Therefore, EPA believes that, for its purposes, it is essential that the protocol contain the route of administration and the reason for its choice. This requirement will therefore remain in the FIFRA GLPs in § 160.120(a)(10).

e. EPA proposes to delete current § 160.120(a)(12) in its entirety. Currently, § 160.120(a)(12) requires that the protocol contain the method by which the degree of absorption of the test and control substance by the test system will be determined. EPA agrees with FDA's conclusion that this requirement is not necessary in the protocol.

f. In proposed § 160.120(a)(14), redesignated from current paragraph (a)(15), EPA proposes to conform with FDA's revised GLP regulations and require that the study director's signature be dated on the protocol.

EPA is proposing in § 160.3 that the study initiation date be defined as the date the protocol is signed by the study director. It is through the proposed requirement of § 160.120(a)(14), that the Agency will be able to identify the official study initiation date.

16. *Section 160.130 Conduct of a study.* a. FDA has modified 21 CFR 58.130(d) to provide that records of gross findings for a specimen from postmortem observations "should" be made available to the pathologist when examining that specimen's histopathology. EPA is proposing to retain the requirement that these records "shall," in all cases, be provided to a pathologist during study of the specimen.

EPA agrees with FDA's conclusion that for most studies it is important for the pathologist to have the records of gross findings available when examining a specimen histopathologically. However, it is FDA's contention that replacing the word "shall" with the word "should" will allow the histopathological evaluation of specimens in a "blind" fashion. EPA also recognizes that it may be appropriate for some studies to provide for "blinding" in histopathological evaluation. However, EPA maintains that, when specified by the protocol, the pathologist can accomplish "blinding," without violating § 160.130 by not looking at the records which have been provided. Therefore, it will remain EPA's requirement that the pathologist must have access to the records of gross findings when examining a specimen histopathologically.

b. In conformance with the revised FDA GLP regulations, in § 160.130(e), EPA proposes to replace the terms "computer" and "computer driven" with the term "automated data collection." EPA agrees with FDA that the terms "computer" or "computer driven" do not adequately reflect the data collection and storage technologies currently used by testing facilities. The Agency believes that the proposed term "automated data collection" provides a more appropriate description of the data collection and storage systems available for industry use.

17. *Section 160.135 Physical and chemical characterization studies.* EPA proposes to add § 160.135 in order to specify the provisions of the proposed FIFRA GLP standards which will not apply to studies designed to determine the physical and chemical characteristics of a test, control, or reference substance. Most studies designed to determine the physical or chemical characteristics of a test, control, or reference substance rarely involve any modifications to the protocol or experimental design and are usually conducted in an assembly line fashion. Therefore, proposed § 160.135(a) relaxes the requirements of the GLP standards without compromising the quality or integrity of data generated from these studies.

However, in § 160.135(b), EPA is also proposing that the exemptions listed in proposed § 160.135(a) will not apply to studies designed to determine stability, solubility, octanol water partition coefficient, volatility, and persistence of a test, control, or reference substance. These types of physical and chemical characterization studies are more complex in design, execution, and interpretation, and EPA does not believe that it can be assured of the quality and integrity of data generated from these studies without complete GLP compliance.

18. *Section 160.185 Reporting of study results.* a. In § 160.185(a)(5), EPA is proposing to require that the final report include information relating to the solubility, in addition to stability, of the test, control or reference substance if solubility information was important to the conduct of the experiment. This change is consistent with the proposed modification to §§ 160.105(b) and 160.113(a)(2) (see discussion of proposed §§ 160.105(b) and 160.113(a)(2)).

19. *Section 160.190 Storage and retrieval of records and data.* a. In § 160.190(a), EPA proposes to conform to the revised FDA GLP regulations by modifying this section to state that specimens obtained from mutagenicity tests and specimens of blood, urine, feces, and biological fluids generated as a result of a study need *not* be retained. EPA is also proposing that § 160.190(a) state that specimens of soil, water, and plants obtained from environmental testing need *not* be retained. EPA agrees with FDA's conclusion that retention of these specimens beyond initial evaluation is burdensome and does not have a significant impact on the quality of a study.

b. As in the revised FDA GLPs, EPA proposes to revise § 160.190(e) by deleting the requirement that study materials which are retained in archives must be indexed specifically by test substance, date of study, test system, and nature of study. EPA agrees with FDA that the intent of this section is to require indexing of materials in such a way as to permit expedient retrieval from archives. EPA does not believe it is necessary to stipulate the specific indexing terms which must be used.

20. *Section 160.195 Retention of records.* a. In § 160.195, EPA proposes to delete the examples provided in the first sentence of paragraph (c). EPA has proposed this change in conformity with FDA's recent revision because EPA agrees with FDA that these examples do not clarify which materials must be retained from a study, and therefore, are not necessary in this section.

b. EPA is also proposing to modify § 160.195(c) to state that specimens obtained from mutagenicity tests, specimens of soil, water, and plants, and wet specimens of blood, urine, feces, biological fluids, do not need to be retained beyond quality assurance review. This change has been adopted in order to be consistent with the change discussed in proposed § 160.190(a).

c. In new § 160.195(i), EPA proposes to allow records and other "raw data" required by these regulations to be retained either as original records or as true copies, such as photocopies, microfiche, or other accurate reproductions of the original records. This provision would be incorporated in the FIFRA GLPs, in § 160.195(i), in order

to be consistent with the recent changes to FDA's Good Laboratory Practice Regulations.

II. Economic Analysis

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency developed a document entitled "Regulatory Impact Analysis of the FIFRA Good Laboratory Practices Regulations". This document, which is available for public inspection, estimates the costs of compliance with the proposed revisions to the FIFRA Good Laboratory Practices Regulations. Compliance costs were estimated using data from a survey of laboratories potentially affected by the revised GLP regulation and from data on pesticides testing demand and costs taken from a 1980 study of the pesticides testing industry.

It was found that the GLP revisions will not increase the costs of health effects testing and that non-health effects testing costs will increase by about 20 percent. It is estimated that the adoption of the proposed GLP revisions would increase annual pesticide testing costs by between $6.3 and $9.9 million in 1986 dollars.

III. Statutory Requirements

As required by FIFRA section 25, copies of this proposed rule were provided to the Scientific Advisory Panel, the Secretary of Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture. No comments were received from either Congressional Committee and the FIFRA Scientific Advisory Panel waived its review of this proposal. The following are the comments of the Secretary of the Department of Agriculture and the response of EPA:

The Secretary of the Department of Agriculture requested that the definition of "study" be modified to more clearly reflect EPA's intent that GLP compliance for efficacy testing be limited to product performance as required by 40 CFR 158.160. We have modified the definition of "study" accordingly.

The Secretary asked if the regulation requires that only studies conducted in accordance with the GLPs are acceptable for Agency review and, are there any conditions under which a study can be accepted which did not fully comply with the GLPs?

Studies may be submitted to EPA which do not completely conform to the GLPs as long as the Statement of Compliance, required by § 160.12(b) of the GLP regulations, describes in detail all differences between the practices used in the study and those required by the GLPs. EPA will review these studies. However, EPA will decide on a case-by-case basis whether studies which deviate from the GLPs are acceptable to support the pesticide product registration, or other marketing and research permit.

The Secretary of Agriculture asked if studies which reflect negatively on a chemical use, or studies which report toxic or carcinogenic effects will automatically be ignored by EPA if they have not been conducted under verifiable GLP conditions.

EPA will *not* ignore scientific data which does not comply with the FIFRA GLP standards, and may choose to rely on such data for purposes of showing adverse effects. However, as stated by § 160.17(a) of the FIFRA GLPs, EPA may determine that data which does not comply with the GLPs is not reliable to support an application for a research or marketing permit. Further, § 160.15(b) of the GLPs states that "The determination that a study will not be considered in support of an application for a research or marketing permit does not, however, relieve the applicant for such a permit of any obligation under any applicable statute or regulation to submit the results of the study to EPA." Adverse effects data, which is required to be submitted to the Agency under FIFRA section 6(a)(2), must be submitted to the Agency regardless of whether it complies with the GLPs or not. The Agency does not now, and will not in the future, require FIFRA section 6(a)(2) data to be generated and submitted to the Agency in accordance with the GLPs. EPA will not ignore any FIFRA section 6(a)(2) data. However, additional testing required by the Agency as a result of the FIFRA section 6(a)(2) finding must be conducted in accordance with the GLPs.

The Department of Agriculture commented that if they are required to conduct the analyses described in §§ 160.105 and 160.113, it would greatly limit their resources and capability to conduct studies under the minor use pesticide program. They state that they are working with labeled pesticides which already have tolerances established in food crops, and that are being utilized under simulated commercial conditions. Therefore, they believe that the information gained from these analyses would not be of any real significance to the results of the studies for efficacy, phytotoxicity, and residue.

EPA continues to believe that adequate test, control, and reference substance characterization, and knowledge of their behavior in the mixture, is essential to assure the quality and integrity of the test. EPA agrees that the analyses of a test, control, or reference substance mixed with a carrier, as required by § 160.113, may be costly. However, some cost savings can be realized by obtaining the documentation of the identity, strength, purity, and composition for each batch of the test, control, and reference substance, as required by § 160.105, from the manufacturer of these chemicals (this is particularly pertinent when the chemical is specifically synthesized for the test). These analyses do not have to be repeated by the testing facility.

Finally, please note, the analyses required by §§ 160.105 and 160.113 are only required for efficacy testing of the types of products specified by 40 CFR 158.160 (e.g., for pesticide products that claim to control microorganisms that pose a threat to human health and pesticides that claim to control vertebrates that may transmit diseases to humans). Therefore, in most cases efficacy testing that is conducted under the Department of Agriculture's minor use pesticide program is not required to comply with the requirements of the GLPs, including the analyses required by §§ 160.105 and 160.113.

Finally, the Secretary of the Department of Agriculture asked if there is a grandfather provision for studies conducted prior to the implementation of the regulations.

EPA does not intend to require compliance with the revised GLP standards for studies begun significantly before the effective date of the final version of these proposed regulations.

IV. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether a rule is a "major" one and is therefore subject to the requirement of a Regulatory Impact Analysis. The proposed amendments of the FIFRA Good Laboratory Practice Standards would not be a major rule because they do not meet any of the criteria set forth and defined in section 1(b) of the Order.

B. Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165 (5 U.S.C. 60 et. seq.)) and it has been determined that it will not have significant economic impact on a substantial number of small businesses, small governments, or small organizations.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control numbers: 2070-0024, 2070-0032, 2070-0040, 2070-0055, 2070-0057, 2070-0060. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 160

Good laboratory practices, Laboratories, Environmental protection, Hazardous materials, Chemicals, Recordkeeping and reporting requirements.

Dated: December 8, 1987.

Lee M. Thomas,

Administrator.

Therefore, it is proposed that 40 CFR Part 160 be amended as follows:

PART 160—[AMENDED]

1. The authority citation for Part 160 continues to read as follows:

Authority: 7 U.S.C. 136a, 136c, 136d, 136f, 136j, 136t, 136v, 136w; 21 U.S.C. 346a, 348, 371, Reorganization Plan No. 3 of 1970.

2. In § 160.3, by removing the alphabetical paragraph designations in paragraphs (a) through (q): by revising the definitions for "Control substance," "Study," and "Test system"; by replacing the term "Test substance or mixture" with the term "Test substance"; and by alphabetically inserting definitions for "Carrier", "Experimental start date", "Experimental termination date", "Reference Substance", "Study completion date", "Study initiation date", and "Vehicle", to read as follows:

§ 160.3 Definitions.

* * * * *

"Carrier" means any material (e.g., feed, water, soil, nutrient media) with which the test substance is combined for administration to test organisms.

"Control substance" means any chemical substance or mixture or any other material other than a test substance, feed, or water that is administered to the test system in the course of study for the purpose of establishing a basis for comparison with the test substance for no-effect levels.

* * * * *

"Experimental start date" means the first date the test substance is applied to the test system.

"Experimental termination date" means the last date on which data are collected directly from the study.

* * * * *

"Reference substance" means any chemical substance or mixture or material other than a test substance, feed, or water that is administered to or used in analyzing the test system in the course of a study for purposes of establishing a basis for comparison with the test substance for known effect levels.

* * * * *

"Study" means any experiment in which a test substance is studied in a test system under laboratory conditions or in the environment to determine or help predict its effects, metabolism, product performance (efficacy as required by 40 CFR 158.160), environmental and chemical fate, persistence and residue, or other characteristics in humans, other living organisms, or media. The term does not include basic exploratory studies carried out to determine whether a test substance has any potential utility.

"Study completion date" means the date the final report is signed by the study director.

* * * * *

"Study initiation date" means the date the protocol is signed by the study director.

"Test substance" means a substance or mixture administered or added to a test system in a study, which substance or mixture:

(1) Is the subject of an application for a research or marketing permit supported by the study, or is the contemplated subject of such an application; or

(2) Is an ingredient, impurity, degradation product, metabolite, or radioactive isotope of a substance described by paragraph (1) of this definition, or some other substance related to a substance described by that paragraph, which is used in the study to assist in characterizing the toxicity, metabolism, or other characteristics of a substance described by that paragraph.

"Test system" means any animal, plant, microorganism, chemical or physical matrix (e.g., soil or water), or subparts thereof, to which the test or control substance is administered or added for study. "Test system" also includes appropriate groups or components of the system not treated with the test, control, or reference substance.

* * * * *

"Vehicle" means any agent which facilitates the mixture, dispersion, or solubilization of a test substance with a carrier.

3. In § 160.29, by revising paragraphs (d), (e), and (f) to read as follows:

§ 160.29 Personnel.

* * * * *

(d) Personnel shall take necessary personal sanitation and health precautions designed to avoid contamination of test, control, and reference substances and test systems.

(e) Personnel engaged in a study shall wear clothing appropriate for the duties they perform. Such clothing shall be changed as often as necessary to prevent microbiological, radiological, or chemical contamination of test systems and test, control, and reference substances.

(f) Any individual found at any time to have an illness that may adversely affect the quality and integrity of the study shall be excluded from direct contact with test systems, and test, control, and reference substances, and any other operation or function that may adversely affect the study until the condition is corrected. All personnel shall be instructed to report to their immediate supervisors any health or medical conditions that may reasonably be considered to have an adverse effect on a study.

4. In § 160.31, by revising paragraph (b) to read as follows:

§ 160.31 Testing facility management.

* * * * *

(b) Replace the study director promptly if it becomes necessary to do so during the conduct of a study.

* * * * *

5. In § 160.35, by revising paragraphs (a) and (b) (1) and (3) and removing paragraph (e) to read as follows:

§ 160.35 Quality assurance unit.

(a) A testing facility shall have a quality assurance unit which shall be responsible for monitoring each study to assure management that the facilities, equipment, personnel, methods, practices, records, and controls are in conformance with the regulations in this part. For any given study, the quality assurance unit shall be entirely separate from and independent of the personnel engaged in the direction and conduct of that study.

(b) The quality assurance unit shall:

(1) Maintain a copy of a master schedule sheet of all studies conducted at the testing facility indexed by test substance and containing the test system, nature of study, date study was

initiated, current status of each study, identity of the sponsor, and name of the study director.

* * * * *

(3) Inspect each study at intervals adequate to ensure the integrity of the study and maintain written and properly signed records of each periodic inspection showing the date of the inspection, the study inspected, the phase or segment of the study inspected, the person performing the inspection, findings and problems, action recommended and taken to resolve existing problems, and any scheduled date for reinspection. Any problems which are likely to affect study integrity found during the course of an inspection shall be brought to the attention of the study director and management immediately.

* * * * *

6. By revising § 160.41 to read as follows:

§ 160.41 General.

Each testing facility shall be of suitable size and construction to facilitate the proper conduct of studies. Testing facilities which are not located within an indoor controlled environment shall be of suitable location to facilitate the proper conduct of studies. Testing facilities shall be designed so that there is a degree of separation that will prevent any function or activity from having an adverse effect on the study.

7. By revising § 160.43 to read as follows:

§ 160.43 Test system care facilities.

(a) A testing facility shall have a sufficient number of animal rooms or other test system areas, as needed, to ensure: proper separation of species or test systems, isolation of individual projects, quarantine or isolation of animals or other test systems, and routine or specialized housing of animals or other test systems.

(1) In tests with plants or aquatic animals, proper separation of species can be accomplished within a room or area by housing them separately in different chambers or aquaria. Separation of species is unnecessary where the protocol specifies the simultaneous exposure of two or more species in the same chamber, aquarium, or housing unit.

(2) Aquatic toxicity tests for individual projects shall be isolated to the extent necessary to prevent cross-contamination of different chemicals used in different tests.

(b) A testing facility shall have a number of animal rooms or other test system areas separate from those described in paragraph (a) of this section to ensure isolation of studies being done with test systems or test, control, and reference substances known to be biohazardous, including volatile substances, aerosols, radioactive materials, and infectious agents.

(c) Separate areas shall be provided, as appropriate, for the diagnosis, treatment, and control of laboratory test system diseases. These areas shall provide effective isolation for the housing of test systems either known or suspected of being diseased, or of being carriers of disease, from other test systems.

(d) Facilities shall have proper provisions for collection and disposal of contaminated water, soil, or other spent materials. When animals are housed, facilities shall exist for the collection and disposal of all animal waste and refuse or for safe sanitary storage of waste before removal from the testing facility. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, disease hazards, and environmental contamination.

(e) Facilities shall have provisions to regulate environmental conditions (e.g., temperature, humidity, photoperiod) as specified in the protocol.

(f) For marine test organisms, an adequate supply of clean sea water or artificial sea water (prepared from deionized or distilled water and sea salt mixture) shall be available. The ranges of composition shall be as specified in the protocol.

(g) For freshwater organisms, an adequate supply of clean water of the appropriate hardness, pH, and temperature, and free of contaminants capable of interfering with the study, shall be available as specified in the protocol.

(h) For plants, an adequate supply of soil of the appropriate composition, as specified in the protocol, shall be available as needed.

8. By revising § 160.45 to read as follows:

§ 160.45 Test system supply facilities.

(a) There shall be storage areas, as needed, for feed, nutrients, soils, bedding, supplies, and equipment. Storage areas for feed nutrients, soils, and bedding shall be separated from areas housing the test systems and shall be protected against infestation or contamination. Perishable supplies shall be preserved by appropriate means.

(b) When appropriate, plant supply facilities shall be provided. These include:

(1) Facilities, as specified in the protocol, for holding, culturing, and maintaining algae and aquatic plants.

(2) Facilities, as specified in the protocol, for plant growth (e.g., greenhouses, growth chambers, light banks).

(c) When appropriate, facilities for aquatic animal tests shall be provided. These include aquaria, holding tanks, ponds, and ancillary equipment, as specified in the protocol.

9. By revising § 160.47 to read as follows:

§ 160.47 Facilities for handling test, control, and reference substances.

(a) As necessary to prevent contamination or mixups, there shall be separate areas for:

(1) Receipt and storage of the test, control, and reference substances.

(2) Mixing of the test, control, and reference substances with a carrier, e.g., feed.

(3) Storage of the test, control, and reference substance mixtures.

(b) Storage areas for test, control, and/or reference substance and for test, control, and/or reference mixtures shall be separate from areas housing the test systems and shall be adequate to preserve the identity, strength, purity, and stability of the substances and mixtures.

10. By revising § 160.49 to read as follows:

§ 160.49 Laboratory operation areas.

Separate laboratory space and other space shall be provided, as needed, for the performance of the routine and specialized procedures required by studies.

§ 160.53 [Removed]

11. By removing § 160.53 *Administrative and personnel facilities.*

12. By revising § 160.61 to read as follows:

§ 160.61 Equipment design.

Equipment used in the generation, measurement, or assessment of data and equipment used for facility environmental control shall be of appropriate design and adequate capacity to function according to protocol and shall be suitably located for operation, inspection, cleaning, and maintenance.

13. In § 160.63, by revising paragraph (b) to read as follows:

§ 160.63 Maintenance and calibration of equipment.

* * * * *

(b) The written standard operating procedures required under

§ 160.81(b)(11) shall set forth in sufficient detail the methods, materials, and schedules to be used in the routine inspection, cleaning, maintenance, testing, calibration, and/or standardization of equipment, and shall specify, when appropriate, remedial action to be taken in the event of failure or malfunction of equipment. The written standard operating procedures shall designate the person responsible for the performance of each operation.

* * * * *

14. In § 160.81, by revising paragraphs (b) (1), (2), (3), (5), (6), (7), and (12) and (c) to read as follows:

§ 160.81 Standard operating procedures.

* * * * *

(b) * * *

(1) Test system room preparation.

(2) Test system care.

(3) Receipt, identification, storage, handling, mixing, and method of sampling of the test, control, and reference substances.

* * * * *

(5) Laboratory or other tests.

(6) Handling of test systems found moribund or dead during study.

(7) Necropsy of test systems or postmortem examination of test systems.

* * * * *

(12) Transfer, proper placement, and identification of test systems.

(c) Each laboratory or other study area shall have immediately available manuals and standard operating procedures relative to the laboratory or field procedures being performed. Published literature may be used as a supplement to standard operating procedures.

* * * * *

15. By revising § 160.90 to read as follows:

§ 160.90 Animal and other test system care.

(a) There shall be standard operating procedures for the housing, feeding, handling, and care of animals and other test systems.

(b) All newly received test systems from outside sources shall be isolated and their health status or appropriateness for the study evaluated. This evaluation shall be in accordance with acceptable veterinary medical practice or scientific practice.

(c) At the initiation of a study, test systems shall be free of any disease or condition that might interfere with the purpose or conduct of the study. If during the course of the study, the test systems contract such a disease or condition, the diseased test systems should be isolated, if necessary. These test systems may be treated for disease or signs of disease provided that such treatment does not interfere with the study. The diagnosis, authorization of treatment, description of treatment, and each date of treatment shall be documented and shall be retained.

(d) Warm-blooded animals, adult reptiles, and adult terrestrial amphibians used in laboratory procedures that require manipulations and observations over an extended period of time or in studies that require these test systems to be removed from and returned to their test system-housing units for any reason (e.g., cage cleaning, treatment, etc.), shall receive appropriate identification (e.g., tattoo, toe clip, color code, ear tag, ear punch, etc.). All information needed to specifically identify each test system within the test system-housing unit shall appear on the outside of that unit. Suckling mammals and juvenile birds are excluded from the requirement of individual identification unless otherwise specified in the protocol.

(e) Except as specified in paragraph (e)(1) of this section, test systems of different species shall be housed in separate rooms when necessary. Test systems of the same species, but used in different studies, should not ordinarily be housed in the same room when inadvertent exposure to test, control, or reference substances or test system mixup could affect the outcome of either study. If such mixed housing is necessary, adequate differentiation by space and identification shall be made.

(1) Plants, invertebrate animals, aquatic vertebrate animals, and organisms that may be used in multispecies tests need not be housed in separate rooms, provided that they are adequately segregated to avoid mixup and cross contamination.

(2) [Reserved]

(f) Cages, racks, pens, enclosures, aquaria, holding tanks, ponds, growth chambers, and other holding, rearing and breeding areas, and accessory equipment, shall be cleaned and sanitized at appropriate intervals.

(g) Feed, soil, and water used for the test systems shall be analyzed periodically to ensure that contaminants known to be capable of interfering with the study and reasonably expected to be present in such feed, soil, or water are not present at levels above those specified in the protocol. Documentation of such analyses shall be maintained as raw data.

(h) Bedding used in animal cages or pens shall not interfere with the purpose or conduct of the study and shall be changed as often as necessary to keep the animals dry and clean.

(i) If any pest control materials are used, the use shall be documented. Cleaning and pest control materials that interfere with the study shall not be used.

(j) All plant and animal test organisms shall be acclimatized, prior to their use in an experiment, to the environmental conditions of the test.

Subpart F—Test, Control, and Reference Substances

16. By revising the heading for Subpart F to read as set forth above.

17. By revising § 160.105 to read as follows:

§ 160.105 Test, control, and reference substance characterization.

(a) The identity, strength, purity, and composition, or other characteristics which will appropriately define the test, control, or reference substance shall be determined for each batch and shall be documented before its use in an experiment. Methods of synthesis, fabrication, or derivation of the test, control, or reference substance shall be documented by the sponsor or the testing facility.

(b) The stability and, when relevant to the conduct of the experiment, the solubility of each test, control, or reference substance shall be determined by the testing facility or by the sponsor before the experimental start date. Where periodic analysis of each batch is required by the protocol, there shall be written standard operating procedures that shall be followed.

(c) Each storage container for a test, control, or reference substance shall be labeled by name, chemical abstracts service number (CAS) or code number, batch number, expiration date, if any, and, where appropriate, storage conditions necessary to maintain the identity, strength, purity, and composition of the test, control, or reference substance. Storage containers shall be assigned to a particular test substance for the duration of the study.

(d) For studies of more than 4 weeks duration, reserve samples from each batch of test, control, and reference substances shall be retained for the period of time provided by § 160.195.

(e) The stability of test, control, and reference substances under test conditions shall be known for all studies.

18. In § 160.107, by revising the section heading and introductory text to read as follows:

§ 160.107 Test, control, and reference substance handling.

Procedures shall be established for a system for the handling of the test, control, and reference substances to ensure that:

* * * * *

19. By revising § 160.113 to read as follows:

§ 160.113 Mixtures of substances with carriers.

(a) For each test, control, or reference substance that is mixed with a carrier, tests by appropriate analytical methods shall be conducted:

(1) To determine the uniformity of the mixture and to determine, periodically, the concentration of the test, control, or reference substance in the mixture.

(2) To determine the stability and, when relevant to the conduct of the experiment, the solubility of the test, control, or reference substance in the mixture, before the experimental start date. Determination of the stability and solubility of the test, control, or reference substance in the mixture shall be done under the environmental conditions specified in the protocol and as required by the conditions of the experiment. Where periodic analysis of the mixture is required by the protocol, there shall be written standard operating procedures that shall be followed.

(b) Where any of the components of the test, control, or reference substance carrier mixture has an expiration date, that date shall be clearly shown on the container. If more than one component has an expiration date, the earliest date shall be shown.

(c) If a vehicle is used to facilitate the mixing of a test substance with a carrier, assurance shall be provided that the vehicle does not interfere with the integrity of the test.

20. In § 160.120, by revising paragraph (a) to read as follows:

§ 160.120 Protocol.

(a) Each study shall have an approved written protocol that clearly indicates the objectives and all methods for the conduct of the study. The protocol shall contain but shall not necessarily be limited to the following information:

(1) A descriptive title and statement of the purpose of the study.

(2) Identification of the test, control, and reference substance by name, chemical abstracts service (CAS) number or code number.

(3) The name and address of the sponsor and the name and address of the testing facility at which the study is being conducted.

(4) The proposed experimental start and termination dates.

(5) Justification for selection of the test system.

(6) Where applicable, the number, body weight, sex, source of supply, species, strain, substrain, and age of the test system.

(7) The procedure for identification of the test system.

(8) A description of the experimental design, including methods for the control of bias.

(9) Where applicable, a description and/or identification of the diet used in the study as well as solvents, emulsifiers and/or other materials used to solubilize or suspend the test, control, or reference substances before mixing with the carrier. The description shall include specifications for acceptable levels of contaminants that are reasonably expected to be present in the dietary materials and are known to be capable of interfering with the purpose or conduct of the study if present at levels greater than established by the specifications.

(10) The route of administration and the reason for its choice.

(11) Each dosage level, expressed in milligrams per kilogram of body or test system weight or other appropriate units, of the test, control, or reference substance to be administered and the method of frequency of administration.

(12) The type and frequency of test analyses, and measurements to be made.

(13) The records to be maintained.

(14) The date of approval of the protocol by the sponsor and the dated signature of the study director.

(15) A statement of the proposed statistical method.

* * * * *

21. In § 160.130, by revising paragraphs (d) and (e) to read as follows:

§ 160.130 Conduct of a study.

* * * * *

(d) In animal studies where histopathology is required, records of gross findings for a specimen from postmortem observations shall be available to a pathologist when examining that specimen histopathologically.

(e) All data generated during the conduct of a study, except those that are generated by automated data collection systems, shall be recorded directly, promptly, and legibly in ink. All data entries shall be dated on the day of entry and signed or initialed by the person entering the data. Any change in entries shall be made so as not to obscure the original entry, shall indicate the reason for such change, and shall be dated and signed or identified at the time of the change. In automated data collection systems, the individual responsible for direct data input shall be identified at the time of data input. Any change in automated data entries shall be made so as not to obscure the original entry, shall indicate the reason for change, shall be dated, and the responsible individual shall be identified.

22. By adding § 160.135 to read as follows:

§ 160.135 Physical and chemical characterization studies.

(a) Except as provided in paragraph (b) of this section, the following provisions shall not apply to studies designed to determine physical and chemical characteristics of a test, control, or reference substance:

§ 160.31 (c), (d), and (g)
§ 160.35 (b) and (c)
§ 160.43
§ 160.45
§ 160.47
§ 160.49
§ 160.81(b) (1), (2), (6) through (9), and (12)
§ 160.90
§ 160.105 (a) through (d)
§ 160.113
§ 160.120(a) (5) through (12), and (15)
§ 160.185(a) (5) through (8), (10), (12), and (14)
§ 160.195 (c) and (d)

(b) The exemptions provided in paragraph (a) of this section shall not apply to physical/chemical characterization studies designed to determine stability, solubility, octanol water partition coefficient, volatility, and persistence (such as biodegradation, photodegradation, and chemical degradation studies), and such studies shall be conducted in accordance with this part.

23. In § 160.185, by revising paragraphs (a) (4) and (5) to read as follows:

§ 160.185 Reporting of study results.

(a) * * *

(4) The test, control, and reference substances identified by name, chemical abstracts service (CAS) number or code number, strength, purity, and composition, or other appropriate characteristics.

(5) Stability and, when relevant to the conduct of the experiment, the solubility of the test, control, and reference substances under the conditions of administration.

* * * * *

24. In § 160.190, by revising paragraphs (a) and (e) to read as follows:

§ 160.190 Storage and retrieval of records and data.

(a) All raw data, documentation, records, protocols, specimens, and final reports generated as a result of a study shall be retained. Specimens obtained from mutagenicity tests, specimens of soil, water, and plants, and wet specimens of blood, urine, feces, and biological fluids, do not need to be retained beyond quality assurance. Correspondence and other documents relating to interpretation and evaluation of data, other than those documents contained in the final report, also shall be retained.

* * * * *

(e) Material retained or referred to in the archives shall be indexed to permit expedient retrieval.

25. In § 160.195, by revising paragraph (c) and adding paragraph (i) to read as follows:

§ 160.195 Retention of records.

* * * * *

(c) Wet specimens, samples of test, control, or reference substances, and specially prepared material which are relatively fragile and differ markedly in stability and quality during storage, shall be retained only as long the quality of the preparation affords evaluation. Specimens obtained from mutagenicity tests, specimens of soil, water, and plants, and wet specimens of blood, urine, feces, biological fluids, do not need to be retained beyond quality assurance review. In no case shall retention be required for longer periods than those set forth in paragraph (b) of this section.

* * * * *

(i) Records required by this part may be retained either as original records or as true copies such as photocopies, microfilm, microfiche, or other accurate reproductions of the original records.

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40 CFR Part 792

[OPTS-46016; FRL-3245-6]

Toxic Substances Control Act (TSCA); Good Laboratory Practice Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the TSCA Good Laboratory Practice (GLP) Standards to incorporate many of the changes made by the Food and Drug Administration (FDA) to its GLP regulations and to expand the scope of the TSCA GLP standards to apply to testing conducted in the field under TSCA. EPA is proposing this amendment in order to ensure the quality and integrity of data generated from such studies.

DATE: Submit written comments on or before March 28, 1988.

ADDRESS: Submit written comments, identified by the document control number (OPTS-46016), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

The public record supporting this action is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460 (202) 554-1404.

SUPPLEMENTARY INFORMATION: Following is an index to the remainder of this preamble:

I. Introduction

A. Legal Authority

On November 29, 1983 (48 FR 53922), EPA promulgated the GLP standards under the authority of TSCA section 4 (90 Stat. 2006, 15 U.S.C. 2603). Section 4(a) of TSCA authorizes the EPA Administrator to require, by rule, that manufacturers (including importers) and processors of identified chemical substances and mixtures test such chemicals if certain findings are made. Section 4(b)(1) of TSCA specifies that each test rule shall include standards for the development of test data. These standards are defined in section 3(12) of TSCA to mean a prescription of—

(A) the—

(i) health and environmental effects, and

(ii) information relating to the toxicity, persistence, and other characteristics which affect health and the environment, for which test data for a chemical substance or mixture are to be developed and any analysis that is to be performed on such data, and

(B) to the extent necessary to assure that data respecting such effects and characteristics are reliable and adequate—

(i) the manner in which such data are to be developed,

(ii) the specification of any test protocol or methodology to be employed in the development of such data, and

(iii) such other requirements as are necessary to provide such assurance.

In summary, the specific authority to issue the GLP standards is provided by section 4(b)(1) of TSCA, which is further explained by the definitions in sections 3(12)(B)(i) and 3(12)(B)(iii).

In addition, the Agency also requires sponsors to utilize these GLP standards when conducting testing under TSCA section 4 testing consent agreements and will include provisions to adhere to these GLP standards in those agreements (see 40 CFR 790.60(a)(7)). Also, it is the Agency's policy that all data developed as a result of rules or orders under section 5 of TSCA should be in accordance with the GLP standards. If data developed under section 5 of TSCA are not generated in accordance with the GLP standards, the Agency may elect to consider such data insufficient to evaluate the health effects, environmental effects, and fate of the chemical.

B. Background

EPA originally published enforceable TSCA Good Laboratory Practice Standards in the **Federal Register** of November 29, 1983 (48 FR 53922), which were codified as 40 CFR Part 792. At the same time, EPA published GLP standards applicable to testing under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 48 FR 53963, 40 CFR Part 160). These regulations were promulgated in response to investigations by EPA and FDA during the mid-1970s which revealed that some studies submitted to the Agencies had not been conducted in accordance with acceptable laboratory practices. Some studies had been conducted so poorly that the resulting data could not be relied upon in EPA's regulatory decisionmaking process. For instance, some studies had been submitted which did not adhere to specified protocols, were conducted by underqualified personnel and supervisors, or were not adequately monitored by study sponsors. In some cases results were selectively reported, underreported, or fraudulently reported. In addition, it was discovered that some testing facilities displayed poor animal care procedures and inadequate recordkeeping techniques. The TSCA GLP standards specify minimum practices and

procedures which must be followed in order to ensure the quality and integrity of data submitted in accordance with TSCA section 4 requirements. The 1983 TSCA GLP standards also established a policy that persons should comply with the GLP standards when submitting data in response to rules and orders issued under section 5 of TSCA, and when submitting data to the Agency voluntarily.

When EPA published its final TSCA and FIFRA GLP standards in the **Federal Register** of November 29, 1983, the Agency sought to harmonize the requirements and language with those regulations promulgated by the FDA in the **Federal Register** of December 22, 1978 (43 FR 60013), and codified as 21 CFR Part 58. Differences between the two Agencies' current GLP regulations exist only to the extent necessary to reflect the Agencies different statutory responsibilities under TSCA, FIFRA, and the Federal Food, Drug, and Cosmetic Act (FFDCA). Similar to the FDA GLP regulations, the FIFRA and TSCA GLPs delineate standards for studies designed to determine the health effects of a test substance; however, the TSCA GLPs also contain provisions related to environmental testing (i.e., ecological effects and chemical fate).

Compliance with EPA's GLP regulations has been monitored through a program of laboratory inspections and study audits coordinated between EPA and FDA. Under an Interagency Agreement originating in 1978, FDA carries out inspections at laboratories which conduct health effects testing. EPA primarily performs laboratory inspections and data audits for environmental studies.

After a thorough review of its GLP regulations and compliance program, FDA concluded that some of the provisions of the GLPs needed to be clarified, amended, or deleted in order to reduce the regulatory burden on testing facilities. Accordingly, FDA proposed revisions to its GLP regulations in the **Federal Register** of October 24, 1984 (49 FR 43530), which were intended to simplify the regulation without compromising study integrity. FDA's proposed revision has recently been published as a final rule in the **Federal Register** of September 4, 1987 (52 FR 33768).

EPA agrees with FDA that many provisions of the GLP regulations can be streamlined without compromising the goals of the GLPs. Therefore, EPA is proposing to amend the TSCA GLP standards to incorporate many of the changes recently made by FDA to its GLP regulations. In addition, EPA is proposing to expand the scope of the TSCA GLPs to cover testing wherever it is conducted (e.g., field testing). In another notice in this **Federal Register** EPA is proposing similar changes to the FIFRA GLP standards.

C. Consistency With FDA GLP Regulations

It is EPA's policy to minimize the regulatory burden on the public which might arise from conflicting requirements which could be promulgated under different regulatory authorities. In keeping with this policy, the final 1983 TSCA GLP Standards, 40 CFR Part 792, followed the format and, with few exceptions, the wording of FDA's final GLP regulations, 21 CFR Part 58. Differences between the EPA and FDA GLP regulations were based upon varying needs and responsibilities under each Agency's regulatory statutes. This proposed revision to the TSCA GLP standards follows this same policy by conforming to many of the changes FDA made to its GLP regulations, published in the **Federal Register** of September 4, 1987 (52 FR 33768). EPA has varied from FDA's revised GLP regulations only when necessary due to EPA's statutory responsibilities. The most significant differences between the EPA proposal and the revised FDA GLP regulations are the scope of the testing and test systems affected.

As in the current TSCA Good Laboratory Practice Standards, the proposed revisions to the TSCA GLP standards vary from the FDA GLPs in that the TSCA GLPs incorporate GLP provisions for environmental testing (EPA is proposing that the FIFRA GLPs extend to environmental studies as well). Environmental studies include ecological effects and chemical fate studies. Ecological effects studies are those performed for development of information on nonhuman toxicity and potential ecological impact of chemicals and their degradation products. Chemical fate studies are studies performed to characterize physical, chemical, and persistence properties of a substance in order to evaluate the transport and transformation of the substance in the environment.

To ensure the quality and integrity of all data generated from environmental studies, the current TSCA GLP standards contain requirements within 40 CFR Part 792 Subpart L applicable to testing plants, microbial organisms, aquatic organisms, amphibians, reptiles, and birds, where appropriate. These requirements include provisions for care, care facilities, and supply facilities for the various test systems used in environmental testing. As a means of simplifying the regulations, EPA is proposing that the requirements currently found within Subpart L be merged into Subparts A through J of the TSCA GLPs. Accordingly, it is proposed that current § 792.43 *Animal care facilities*, § 792.45 *Animal supply facilities*, and § 792.90 *Animal care* incorporate the provisions relating to the care of test systems, care facilities, and supply facilities from § 792.228 in Subpart L. The expanded sections are retitled in the proposed revision as follows: § 792.43 *Test system care facilities*, § 792.45 *Test system supply facilities*, and § 792.90 *Animal and other test system care*. Further, in most instances, EPA is proposing to replace the term "animal," currently used in the EPA and FDA GLP regulations, with the broader term "test system." Specifically, this change is proposed in §§ 792.43, 792.45, 792.81, 792.90, and 792.120. These proposed changes are further discussed in Unit I.D. of this preamble.

EPA's proposed TSCA GLP standards also vary from FDA's in their coverage of testing conducted in the field. To ensure the quality and integrity of data submitted to the Agency, EPA believes that GLP standards must apply whenever data collection occurs. Because many of the test data required by EPA are developed in the field, or more accurately in outdoor laboratories (i.e., ground water studies, air monitoring studies, degradation in soil, etc.), EPA is proposing to include field testing within the scope of these regulations.

The remaining differences between the EPA and FDA GLPs are described in the preamble to this proposed rule and the preamble to the TSCA Good Laboratory Practice Standards, published in the **Federal Register** of November 29, 1983 (48 FR 53922). EPA has coordinated this proposal with FDA and has considered comments received on the proposal to amend the FDA GLP regulations (October 29, 1984; 49 FR 43530).

D. Proposed Changes to the TSCA GLP Regulations

1. *Section 792.1 Scope.* EPA proposes to amend § 792.1 to reflect the Agency's option of entering into testing consent agreements in lieu of a test rule under section 4 of TSCA. Consistently, the term "testing consent agreement" has been added to the definition of "test substance" in proposed § 792.3, and has been added in proposed §§ 792.12 and 792.17.

2. *Section 792.3 Definitions.* a. EPA proposes that the definition of the term "carrier" be moved from § 792.226(b) to § 792.3. As stated in Unit I.C. of this

preamble, EPA is proposing to delete Subpart L and include all the provisions of Subpart L within Subparts A through J of the TSCA GLP standards. Therefore, EPA proposes to define the term "carrier" in § 792.3 to mean any material, such as feed, water, soil, nutrient material, etc., with which the test substance is combined for administration to test organisms.

b. EPA proposes to conform with the September 4, 1987, FDA GLP regulations by amending the definition of "control substance" to exclude feed and water. EPA agrees with FDA's statement regarding this change (52 FR 33769: September 4, 1987) that "the term control [substance] should be reserved for the discrete substances/articles, and vehicles other than feed and water administered to groups of the test system to provide a basis of comparison with the test [substance]."

FDA contends that, under the current definition of "control substance," because the control group of a test system provides the basis for comparison with a test substance, any substance administered to the control group is considered a control substance. This means that feed and water given to the control group of a study are considered a control substance. For instance, in studies in which the test substance or mixture is administered to the test system orally, through feed or drinking water, gavage, or injection, the feed or water is considered a control substance. As a control substance, the feed or water is subject to § 792.105(a) for substance characterization, § 792.105(b) for testing for stability and solubility, § 792.105(c) for requirements for appropriate storage, § 792.105(d) for retention of reserve samples, and § 792.107 for documentation of receipt and distribution of each batch. EPA agrees with FDA that placing these requirements on the use of feed and water as a control substance in control groups unnecessarily burdens the regulated community and is not essential for ensuring the quality and integrity of the data generated by a study.

However, under 40 CFR Part 792, feed and water used as a carrier for the test and control substances or mixtures are still covered by the applicable sections for the testing and storage of test, control, and reference substances and mixtures. For example, § 792.31(e) requires testing facility management to ensure that materials are available as scheduled; § 792.45 requires that test system supply facilities shall be provided to ensure proper feed storage; § 792.81(b)(2) requires Standard Operating Procedures (SOP) for test system care, including nutrition; § 792.90(g) requires periodic analysis of feed and water to ensure that contaminants which would interfere with the study are not present; § 792.120(a)(9) requires the protocol to describe and/or identify the diet used in the study, including the level of contaminants expected in the dietary materials.

c. EPA also proposes to modify the definition of "control substance" by adding the phrase "for no effect levels." This addition to the definition is being proposed merely to clarify the difference between the term "reference substance" and "control substance." While a control substance is used to determine a baseline comparison for no effect levels, a reference substance is used to determine a baseline comparison to an established effect level.

d. EPA proposes to add and define the terms "experimental start date" and "experimental termination date." "Experimental start date" is proposed to mean the first date the test substance is applied to the test system. Under this definition, as of the experimental start date: (1) Under proposed § 792.105(b), the stability and, if important to the conduct of the experiment, the solubility of the test, control, and reference substance would have to be determined; (2) under proposed § 792.113(a)(2), the stability and, when important to the conduct of the experiment, the solubility of the test, control, and reference substance in the mixture would have to be determined and; (3) under proposed § 792.120(a)(4), the proposed experimental start date would appear in the protocol.

EPA proposes that "experimental termination date" be defined as the last date on which data are collected directly from the study. Under § 792.120(a)(4), as proposed, EPA would require the proposed experimental termination date to appear in the protocol. EPA considers histopathology after scheduled terminal animal sacrifice to be carried out before the experimental termination date.

Experimental start and termination dates would be expressed as the actual calendar dates, not just time-line increments. Therefore, when determining the proposed experimental start and termination dates, as would be required by proposed § 792.120(a)(4), the submitter should consider any lag time relating to protocol approval and laboratory contracting.

e. EPA proposes to add and define the term "reference substance". This term is currently defined in § 792.226(f) to mean any chemical substance or mixture or material other than a test substance that is administered to or used in analyzing the test system in the course of a study for purposes of establishing a basis for comparison with the test substance. EPA proposes to add the phrase "for known effect levels" to this definition to more clearly distinguish the terms "reference substance" and "control substance" (see discussion of the term "control substance" in Unit I.D. of this preamble).

Consistent with the Agency's proposal to merge the provisions of Subpart L into Subparts A through J, all the requirements provided for test and control substances are being proposed to apply to "reference substances." Accordingly, the term "reference substance" has been added wherever the term "test and control substance" appears in these regulations. Specifically, it is proposed that the term "reference substance" be added to § 792.29 (d) through (f); § 792.43(b); § 792.47(a) (1) through (3) and (b); § 792.81(b)(3); § 792.90(e); the Subpart F heading; § 792.105 (a) through (e); § 792.107; § 792.113 (a) and (b); § 792.120(a) (2), (9), and (11); § 792.185(a) (4) and (5); and § 792.195(c).

f. EPA proposes to amend the definition of "sponsor" by replacing the term "negotiated testing agreement" with the term "testing consent agreement." This proposal reflects the Agency's option of entering into a section 4 testing consent agreement in lieu of a test rule promulgated under section 4 of TSCA.

g. EPA proposes to broaden the definition of the term "study" to be consistent with the scope of testing that may be submitted under TSCA sections 4 and 5.

EPA is proposing to delete the phrase "in vivo or in vitro" from the definition of "study." The Agency still intends the requirements of these regulations to apply to "in vivo and in vitro" experiments. However, since the Agency intends these regulations to apply to all studies required to be developed under TSCA, including those conducted in the field, EPA believes that the phrase "in vivo or in vitro" in the current definition of "study" is too limiting.

Further, EPA is proposing to delete the term "prospectively" from the definition of "study." In this way, epidemiological studies, which could be "retrospective," will be required to be presented to the Agency in accordance with the GLP standards. EPA recognizes that data used in an epidemiological study may not have been generated in conformance

with the TSCA GLP standards, however, it is EPA's contention that the epidemiological study itself can be conducted and submitted to the Agency in accordance with the GLPs.

EPA is also proposing to delete from the current definition of "study" the following sentence: "The term does not include studies utilizing human subjects or clinical studies or field trials in animals." Again, this change is consistent with EPA's intention that all studies follow GLPs which are required to be conducted under TSCA.

h. EPA proposes to incorporate the FDA definitions for "study completion date" and "study initiation date" into the TSCA GLP standards in § 792.3. "Study completion date" is proposed to mean the date the final report is signed by the study director. EPA advises that the phrase "close of the study" as used in § 792.33(f) refers to the "study completion date." Therefore, as of that date: (1) Under § 792.33(f), the study director must ensure that all raw data, documentation, protocols, specimens, and final reports are transferred to the archives; and (2) after this date under § 792.185(c), corrections or additions to the final report must be in the form of an amendment by the study director under the procedures specified in that section.

EPA proposes to define "study initiation date" as the date the protocol is signed by the study director. EPA advises that the phrase "study is initiated" as used in § 792.31(a), and the phrase "study was initiated" as used in § 792.35(b)(1) refer to the "study initiation date." Therefore, as of the study initiation date: (1) Under § 792.31(a), the testing facility management would designate a study director; (2) under § 792.35(b)(1), the study would be entered on the master schedule sheet by the quality assurance unit; and (3) under § 792.120(b), after this date all changes or revisions in the protocol would be documented, signed by the study director, and dated. EPA also expects that as of the study initiation date, under § 792.31(e), the testing facility management would have ensured that personnel resources, facilities, equipment, material, and methodologies are available as scheduled.

i. EPA proposes to replace the term "test substance or mixture" with the term "test substance." This is an editorial change which makes usage consistent in the GLP standards. The term "test substance" is proposed to be defined to include mixtures.

j. EPA proposes to incorporate the definition of the term "test system" currently found at § 792.226(a) into the definition of "test system" currently found at § 792.3(p). Therefore, the proposed definition of "test system" in proposed § 792.3 will include chemical or physical matrices (e.g., soil or water).

k. EPA proposes to incorporate the term "vehicle" currently found in § 792.226(g) into § 792.3 *Definitions.*

3. *Section 792.31 Testing facility management.* In conformance with the revised FDA GLP regulations, in § 792.31(b), EPA proposes to delete the requirement that the replacement of a study director must be documented as "raw data." EPA agrees with FDA that this requirement is redundant with other provisions of the GLPs. For instance, § 792.35(b)(1) states that the master schedule sheet must contain the name of the study director. As FDA notes (52 FR 33770), any replacement of the study director would be reflected on the master schedule sheet, which is already considered "raw data." Further, § 792.120(b) states that all changes in an approved protocol must be documented and signed by the study director. Replacement of the study director is considered to be a change in the approved protocol.

4. *Section 792.35 Quality assurance unit (QAU).* a. In § 792.35(a), EPA proposes to conform with the revised FDA GLP regulations by substituting the term "which" for the current phrase "composed of one or more individuals who." This change clarifies that EPA does not require the QAU to be a fixed, permanently staffed unit whose only functions are to monitor the quality of a study. The Agency is only concerned that there be a distinct separation of duties between those personnel involved with the conduct or direction of a study and those personnel performing quality assurance on the same study. Therefore, EPA does intend proposed § 792.35(a) to prohibit personnel from performing quality assurance activities on their own study.

b. In § 792.35(b)(1), EPA proposes to delete the requirement that the name of the study sponsor appear on the master schedule sheet. Instead, it is proposed that under § 792.35(b)(1) the sponsor's identity appear on the master schedule sheet. This change is being proposed to be consistent with the FDA's recent revision and to provide the regulated community the option of using an identity code on the master schedule in lieu of the sponsor's name.

EPA agrees with FDA's contention that requiring the sponsor to be identified specifically by name on the master schedule is not essential to fulfill the requirements of the GLPs or the goal of ensuring the quality and integrity of the data generated from the studies. However, while the name of the study sponsor would not be required to appear on the master schedule sheet, this information must be made available to the Agency upon request.

c. As in the revised FDA GLP regulations, EPA is also proposing to delete the requirement in § 792.35(b)(1) that the master schedule sheet contain the status of the final report. EPA agrees with FDA that this requirement is redundant in view of the other information required by § 792.35(b)(1) such as the date the experiment began and the current status of each study.

d. In conformance with the revised FDA GLP regulations, EPA proposes to modify the requirements of § 792.35(b)(3) to provide for inspections of a study on a schedule adequate to ensure the integrity of the study. This section currently specifies that the quality assurance unit must inspect each phase of a study periodically. This section also currently specifies that for studies lasting more than 6 months, quality assurance inspections shall be conducted every 3 months, and for studies lasting less than 6 months, quality assurance inspections shall be conducted at intervals adequate to ensure the integrity of the study.

The proposed changes to this section will allow the QAU the necessary latitude to adjust its monitoring activities to meet the individual problems of each study. EPA agrees with FDA's contention that an inspection of each phase of the study is not necessary to ensure that a study is being conducted properly. However, EPA also agrees with FDA that each study, no matter how short, must be inspected at least once while in process. EPA expects that by allowing the QAU flexibility in designing a reasonable inspection schedule, the goal of ensuring the quality of the study can be best achieved.

e. Consistent with the revised FDA GLPs, EPA is proposing to delete § 792.35(e) in its entirety. Section 792.35(e) currently requires that all quality assurance records be kept in one location at the testing facility. As FDA pointed out in its October 29, 1984, proposed GLP revision, since § 792.190(b) already requires the use of archives for the orderly storage and expedient retrieval of all reports and records, the requirements of § 792.35(e) are not necessary. However, EPA maintains that all reports and records, including those of the QAU, must be easily accessible and made available to EPA and FDA inspectors when requested.

5. *Section 792.41 General.* FDA has deleted from its GLPs the requirement

that the location of each testing facility be suitable to facilitate the proper conduct of studies. However, EPA is proposing that § 792.41 require that testing facilities which are not located within an indoor controlled environment be suitably located to facilitate the proper conduct of studies.

The studies FDA requires are generally conducted within the confines of a traditional indoor laboratory. Because the conditions specified within a protocol can be artificially manipulated within the traditional indoor laboratory, the location of these laboratories is generally not a factor in determining the quality of a study. Therefore, it is not necessary to ensure that a traditional indoor testing facility is suitably located to facilitate the proper conduct of the study.

However, the studies EPA requires are not necessarily conducted within the confines of the traditional indoor scientific laboratory (i.e., field studies, exposure monitoring studies, ecological toxicity studies, etc.). EPA considers any site where testing is undertaken to generate data required by the Agency to be a testing facility. The conditions required by the protocol are not necessarily conducive to artificial manipulation in the field, or other outdoor testing facilities. Therefore, ensuring the suitability of the location of these types of testing facilities is both a valid and necessary part of EPA's GLP Standards.

6. *Section 792.43 Test system care facilities.* a. EPA is proposing to revise the title of § 792.43 from "Animal care facilities" to "Test system care facilities." The proposed heading for § 792.43 more adequately reflects the Agency's intent to specify within the main body of the TSCA GLP Standards the requirements for testing facilities for the care of chemical or physical matrices (e.g., soil or water), plants, and microorganisms, as well as animals. Accordingly, the Agency is proposing to further modify § 792.43 by incorporating the term "test system" when facility requirements should extend beyond "animal" care.

b. Consistent with the Agency's intent to incorporate the environmental testing provisions currently found in Subpart L into Subparts A through J of Part 792, paragraphs (a)(1), (a)(2), (d), (e), (f), (g), and (h) in proposed § 792.43 have been added or modified to incorporate the provisions currently found in § 792.228(b) (1) through (7).

c. EPA proposes to modify § 792.43(a) to allow esting facilities to provide for isolation areas rather than quarantine areas. This change is consistent with the proposal to modify § 792.90(b) to allow "isolation" of newly received animals rather than requiring "quarantine" [See Unit I.D. of this preamble for. a discussion of proposed § 792.90(b)].

d. In § 792.43(c), EPA proposes to delete the requirement that separate areas be provided in all cases for the diagnosis, treatment, and control of test system diseases. Instead, it is proposed that such separate areas be provided "as appropriate." This proposal is consistent with the September 4, 1987, revised FDA GLP regulations.

EPA has proposed this modification in order to allow laboratories the option of disposing of diseased animals and other test systems from the experiment without also bearing the expense of maintaining separate areas in testing facilities for diagnosis, treatment, and control of disease. Additionally, EPA recognizes that the diagnosis and treatment requirements of § 792.43(c) may not be appropriate when dealing with such test systems as soil, plants, or microorganisms. However, if the decision is made not to dispose of the test system from the study, then test system care facilities, as specified in proposed § 792.43(c), must be provided.

e. EPA proposes to conform to the revised FDA GLPs by deleting § 792.43(e) in its entirety. Currently, § 792.43(e) requires test system facilities to be designed, constructed, and located so as to minimize disturbances which may interfere with the study. EPA agrees with FDA that this provision is already adequately covered in § 792.41, which requires that facilities be of suitable size construction, and, for outdoor testing facilities, location to facilitate the proper conduct of the study.

7. *Section 792.45 Test system supply facilities.* a. EPA proposes to incorporate the provisions of § 792.228(c) into § 792.45. Therefore, proposed § 792.45 will require that supply facilities necessary for environmental testing be provided when appropriate.

b. Consistent with the proposed expanded scope of this section, EPA is also proposing to retitle § 792.45 from "Animal supply facilities" to "Test system supply facilities."

c. EPA proposes to modify § 792.45 to state "Perishable supplies shall be preserved by appropriate means." This change is being proposed to conform with the revised FDA GLPs and recognizes that there are a variety of acceptable storage and preservation procedures available other than refrigeration. Depending on the stability characteristics of the perishable material, acceptable storage and preservation methods may include desiccation, room temperature-low humidity, and constant temperature-low humidity.

d. EPA also proposes to delete the phrase "or feed" from the last sentence of § 792.45. Both EPA and FDA consider "feed" to be a "supply." Therefore, the use of the word "feed" in § 792.45 is redundant.

8. *Section 792.49 Laboratory operation areas.* a. EPA proposes to conform with FDA's revised GLP regulations by deleting paragraph (b) from § 792.49, adding the phrase "and specialized" after the word "routine" and before the word "procedures," and deleting the qualifying phrase "including specialized areas for performing activities such as aseptic surgery, intensive care, necropsy, histology, radiography, and handling of biohazardous materials."

Paragraphs (a) and (b), as currently worded, describe activities which require that separate laboratory space be provided. As FDA noted in its proposal to modify its corresponding section, the list of activities that currently appears in paragraphs (a) and (b) is not all inclusive and is not essential for the clarity of these sections. Further, by adding the phrase "and specialized," the proposed new paragraph will encompass all activities now listed in paragraphs (a) and (b).

b. In § 792.49, EPA proposes to add the phrase "and other space" after the words "laboratory space" and before the word "shall." As discussed in Unit I.C. of this preamble, this change to § 792.49 is being proposed to reflect that testing does not necessarily take place within the confines of a traditional indoor laboratory. Proposed § 792.49 would require that there be enough space provided to perform the procedures required by the protocol wherever testing takes place (i.e., indoor laboratory or field station).

9. *Section 792.53 Administrative and personnel facilities.* As in the revised FDA GLP regulations, EPA proposes to delete § 792.53 in its entirety. EPA agrees with FDA that the requirements of this section are not necessary for achieving the goals of the TSCA GLP standards.

10. *Section 792.61 Equipment design.* In § 792.61, EPA proposes to delete the phrase "Automatic, mechanical, or electronic" from the beginning of the first sentence. EPA agrees with FDA that the deletion of these qualifying terms provides for a more general interpretation of the word "equipment."

11. *Section 792.63 Maintenance and calibration of equipment.* a. Consistent with the FDA GLPs, EPA is proposing to amend § 792.63(b) to state that standard

operating procedures (SOPs) for remedial action for equipment, in the event of failure or malfunction of equipment, need only be established when "appropriate." This change acknowledges that laboratories may choose to discard rather than repair equipment, and in such cases SOPs which delineate remedial action are not necessary.

b. EPA is also proposing to conform to the revised FDA GLP regulations by deleting from § 792.63(b) the provision that copies of the SOPs shall be made available to laboratory personnel. EPA still believes that laboratory personnel must have access to laboratory SOPs; however, since this requirement is clearly stated in § 792.81(c), EPA considers the inclusion of this provision in § 792.63(b) to be redundant.

12. *Section 792.81 Standard operating procedures.* a. In § 792.81(b) (1), (2), (6), (7), and (12), EPA is proposing to replace the term "animal" with the term "test system." As discussed previously in this preamble, this modification is consistent with the broad scope of test systems which may be used in environmental testing. Further, the Agency proposes to extend all the SOP requirements outlined by § 792.81 to environmental testing. For instance, the provisions of proposed § 792.81(b)(11), which require SOPs for the maintenance and calibration of equipment, would apply to procedures for preparation and maintenance of incubators, greenhouses, or growth chambers, currently required under § 792.228(d).

b. In § 792.81(b)(5), EPA is proposing to require that SOPs be established for tests wherever the testing is undertaken, including those conducted in the field. Accordingly, it is proposed that § 792.81(b)(5) read "Laboratory or other tests" (see discussion of "field testing" in Unit I.C. of this preamble).

c. In conformance with FDA's revised GLP regulations, EPA is proposing to delete the list of examples for laboratory manuals and SOPs required to be made immediately available under § 792.81(c). EPA still intends that laboratory areas must have immediately available manuals and SOPs for laboratory procedures being performed. This requirement still includes toxicology, histology, clinical chemistry, hematology, teratology, and necropsy, if applicable. However, this list is not all inclusive and is too broad to serve as a useful guide. For example, this requirement also includes SOPs for the maintenance, repair, and calibration of equipment as described in § 792.63(b).

d. EPA is also proposing to amend the language of § 792.81(c) to clarify that the requirement of this section also applies to field testing facilities. Therefore, it is proposed that § 792.81(c) will read, "Each laboratory *or other study* area shall have immediately available manuals and standard operating procedures relative to the laboratory or field procedures being performed."

13. *Section 792.90 Animal and other test system care.* a. EPA is proposing to retitle § 792.90 from "Animal care" to "Animal and other test system care." As previously stated, testing required by EPA may involve plants, soils, microorganisms, and other test systems, in addition to animals. The proposed title to § 792.90 reflects the broader scope of test systems for which the EPA intends this section to apply.

Further, it is proposed that the provisions for test system care for ecological effects testing, found in § 792.228(e), be incorporated into proposed § 792.90. Specifically, the proposed revision incorporates the requirements of: § 792.228(e)(1) into proposed § 792.90(b), § 792.228(e)(2) into proposed § 792.90(d), § 792.228(e)(3) into proposed § 792.90(e)(1), § 792.228(e)(4) into proposed § 792.90(f), § 792.228(e)(5) into proposed § 792.90(g), and § 792.228(e)(6) into proposed § 792.90(j).

b. EPA proposes to modify § 792.90(b) to provide for the evaluation of a test system's health status, or the appropriateness of the test system for the study, according to acceptable "scientific practice." This section, as proposed, will still require that newly received animals must have their health status evaluated according to acceptable veterinary medical practices. However, EPA recognizes that it may not be appropriate to evaluate the health status of certain test systems (e.g., soil or water) or to require that a plant, microorganism, soil, or water be evaluated according to acceptable veterinary medical practice to determine their appropriateness for a study. EPA is only concerned that test systems used in a study are free of any disease or condition which may interfere with the purpose or conduct of the study, and that the proper precautions, as stated in § 792.90(b), are taken to comply with this requirement.

c. Additionally, EPA is proposing to modify § 792.90(b), to require "isolation" rather than "quarantine" of newly received animals. This proposal is consistent with FDA's revision to its GLP regulations.

As previously stated, the intent of § 792.90(b) is to prevent the entry of unhealthy or inappropriate test systems into the study, as required by § 792.90(c). Currently, § 792.90(b) provides that this intent be achieved through "quarantine." However, the term "quarantine" suggests a rigid set of procedures, including a mandatory holding period, a specific list of diagnostic procedures, and the use of specialized facilities and test system care practices, which may be an unnecessary burden to industry.

EPA agrees with FDA's conclusion, discussed in the preamble to its revised GLP regulation (52 FR 33775; September 4, 1987), that isolation and evaluation of health status are sufficient precautions against contamination of test systems and, therefore, fulfill the intent of this section. FDA further states that such a revision would provide laboratories the flexibility to develop isolation and health status evaluation procedures best suited for the age, species, class, and type of the test system, as well as the type of study to be performed.

d. EPA proposes to conform to the FDA GLPs by modifying § 792.90(c) to require isolation of diseased test systems only when necessary.

Currently, § 792.90(c) requires that animals which contract a disease or condition shall be isolated in all cases. This requirement would in turn require that separate facilities be available for the isolation of these animals. However, as discussed in the proposal for § 792.43(c), both EPA and FDA believe that laboratories should be given flexibility in their disposition of diseased test systems. As FDA discussed in the proposed revisions to its GLP regulations (49 FR 43533; October 29, 1984), the proposed modification to § 792.90(c) will allow laboratories the option of: (1) Leaving the diseased test system in the experiment provided that the integrity of the study will not be adversely affected by this action; (2) disposing of the test system; or (3) isolating, treating, and returning the test system to the study.

14. *Section 792.105 Test, control, and reference substance characterization.* a. In revised 21 CFR 58.105(a), FDA has deleted the requirement that test and control substance characteristics shall be determined and documented for each batch "before the initiation of the study." This change has not been incorporated by EPA in its proposed revision to § 792.105(a). However, EPA proposes to modify § 792.105(a) to require that test, control, *or reference* substance characterization be determined and documented for each batch before its use in the experiment. EPA feels that this proposed requirement is necessary because it is essential that characteristics of test, control, and reference substances be known prior to their administration or use in an experiment.

EPA's recent experience with antimony trioxide has shown that extensive analytical work was necessary prior to test initiation. Certain assumptions regarding the product's characteristics were used in the protocols for antimony trioxide testing which proved invalid. These invalid assumptions necessitated modifications to the proposed study, resulting in the delay and rescheduling of other subsequent studies. If the analytical work had preceded the toxicology studies, the studies would not have failed and modifications to the studies woul d not have been necessary. The Agency's conclusion is that it is better to delay study schedules than to initiate improper experimental procedures which will produce invalid results.

b. FDA has modified 21 CFR 58.105(b) to provide for the determination of the stability of the test or control substance either before the initiation of the study or through periodic analysis of each batch according to written standard operating procedures. EPA has chosen not to adopt this approach in proposed § 792.105(b) because the Agency does not agree that stability can adequately be demonstrated by periodic analysis without initial evaluation.

Further, there are many studies required by EPA where solubility of the test, control, and reference substance is of critical importance, such as aquatic toxicity studies. Therefore, EPA is proposing that solubility of the test, control, and reference substance be determined before the experimental start date if knowledge of the solubility characteristics is relevant for the proper conduct of the experiment.

It is EPA's contention that both stability and solubility of the test, control, and reference substance need to be determined before the experimental start date in order to ensure proper handling and administration of the test substance to the test system. However, since the determination of the solubility of the test, control, and reference substance is not a requirement in FDA's GLP regulations, EPA is interested in receiving public comment on this issue.

15. *Section 792.113 Mixtures of substances with carriers.* a. FDA has modified 21 CFR 58.113(a)(2) to require determination of the stability of the test and control substance in a mixture, as required by the conditions of the study, either before the initiation of the study or through periodic analysis of each batch. While EPA does not propose to modify § 792.113(a)(2) to provide the option of determining the stability of the mixture either before study initiation or through periodic analysis (see discussion for § 792.105(b)), EPA will modify this section to require stability testing only to the extent required by the conditions of the experiment. As proposed for § 792.105(b), EPA is also proposing to require that, when appropriate to the conduct of the experiment, solubility of the test, control, or reference substance in the mixture must be determined in the same manner (see discussion for § 792.105(b)). Additionally, as proposed for § 792.105 (a) and (b), EPA is proposing to replace the phrase "before the initiation of the study" with the phrase "before the experimental start date" (see discussion for § 792.105(a)).

The phrase "as required by the conditions of the experiment" has been added in order to clarify that determination of stability and, if appropriate, solubility of a test, control, or reference substance in a mixture is only necessary to support its actual time of use in the experiment. Therefore, it is not necessary to provide data which illustrate long-term stability of a mixture when the actual time that the mixture is used is short-term. For example, a test, control, or reference substance in a mixture that will be used the same day it is prepared will only require data sufficient to show stability and, if appropriate, solubility for 1 day.

b. Additionally, EPA proposes to incorporate into § 792.113(a)(2), the provision currently found in § 792.228(f)(2), which states that the determination of the stability or solubility of the test, control, or reference substance in the mixture must be done under the environmental conditions specified in the protocol.

c. EPA proposes to add new paragraph (c) to § 792.113 which incorporates the provisions of § 792.228(f)(3).

16. *Section 792.120 Protocol.* a. In 21 CFR 58.120(a), FDA has replaced the qualifying phrase "but shall not necessarily be limited to" with the phrase "as applicable." EPA proposes to adopt FDA's approach with some modifications. It is proposed that the phrase "Where applicable" appear before the information specified in § 792.120(a)(9), and continue to appear before the information required by § 792.120(a)(6). The phrase "but shall not necessarily be limited to" would remain in this section.

In FDA's discussion of this proposal (49 FR 43533; October 29, 1984), concerns were expressed that some of the information required to appear in the protocol is not applicable to all types of testing. Specifically, FDA points to the information required by 21 CFR 58.120(a) (9) and (11). In 21 CFR 58.120, paragraph (a)(9) requires a description of the diet used in a study as well as solvents, emulsifiers, and/or other materials used to solubilize or suspend the test or control substance before mixing with the carrier. FDA points out that this requirement is not applicable to radiation-emitting products. Section 58.120(a)(11) specifies that the protocol shall specify dosage level, and this requirement is not applicable to implantable medical devices.

Clearly, the basis for FDA's change is to accommodate concerns that are specific to the types of testing required by FDA and do not necessarily apply to testing required by EPA. Further, EPA is concerned that placing the phrase "as applicable" in § 792.120(a) suggests that there may be cases where it is not applicable for any of the other information required by § 792.120(a) to appear in the protocol. Therefore, the phrase "as applicable" should only appear before those items which are not necessarily appropriate to appear in the protocol for certain types of testing.

For example, there may be testing required by EPA where it may not be appropriate to require a protocol to contain the information specified in § 792.120(a)(9), such as describing and/or identifying the diet of a human subject involved in exposure testing. Therefore, EPA proposes to add the phrase "Where applicable" before the information specified in proposed § 792.120(a)(9).

b. In 21 CFR 58.120(a)(4), FDA has deleted the requirement that the protocol contain "The proposed starting and completion dates." EPA is proposing to retain this requirement in § 792.120(a)(4), but is proposing to modify this paragraph to require, "The proposed experimental start and termination dates."

EPA believes that this information is necessary for the evaluation of a protocol and the Agency's scheduling of additional related studies and audit reviews. Section 792.120(a)(4) is related to the selected study method, laboratory, and specialist availability, and other Agency and industry priorities. Often a group of experiments are carried out in sequence, so that both start and termination dates affect subsequent study expectations and timetables. Projected experimental start and termination dates identify the normal duration for a given experiment type and reflect any special considerations that may be unique to a laboratory, anticipated analytical or methodology work, and available resources, and it may also affect pending regulatory timetables.

Given that there are hundreds of studies that EPA must track, these estimated schedules, combined with those from other studies, allow the Agency to more efficiently schedule audits and regulatory action. Further considerations are the following: (1) The availability of composite schedules for many studies may be necessary to set realistic regulatory action goals; (2) composite study schedules are evaluated to schedule audits while several studies are ongoing or recently completed, and which may all be at a given laboratory or geographic location. This directly reduces EPA resources necessary for audit and regulatory review functions; and (3) standard business management by objectives requires intermediate calendar goals when scheduling multiple outputs, or a long-term single product. The master on-site laboratory schedule will incorporate these dates to carry out the study.

c. In 21 CFR 58.120(a)(5), FDA has deleted the requirement that the protocol contain a justification for the selection of the test system. EPA has chosen to retain this requirement in proposed § 792.120(a)(5).

Environmental studies, including both ecological effects and chemical fate, are more diverse than health effects testing. Further, details relevant to the test system design are more chemically dependent in the case of environmental effects and chemical fate testing than in the case of health effects testing. Many of the test systems in environmental studies must be modified in accordance with specific chemical characteristics. Therefore, EPA must allow a much broader range of flexibility in the nature of tests and selection of test systems. In order to fully understand the test and its results, EPA needs to have a discussion of the reasons for selection of the test system. In addition, EPA recognizes that industry may be engaged in state-of-the-art environmental testing. Under proposed § 792.120(a)(5), EPA can keep abreast of industry advances in such testing and ensure that their use of test systems is appropriate. EPA is interested in receiving public comment on whether to limit the requirement that the protocol contain a justification of the test system to environmental testing.

d. FDA has deleted from 21 CFR 58.120(a)(10) the requirement that the protocol include the route of administration and the reason for its choice. EPA has chosen to retain this requirement in proposed § 792.120(a)(10).

The chemicals regulated by FDA will usually have a predefined route of exposure. Therefore, it makes sense for FDA to eliminate the requirement to stipulate the route of administration and the reason for its choice within the protocol. Unlike FDA, EPA is concerned with presence in or exposure to various media (i.e., air, water, soil, sediment, chemicals, etc.) and may not know in advance the routes of exposure for the chemicals it regulates. Most chemicals and products regulated by EPA do not have set routes of exposure and may even have multiple routes of exposure. Therefore, EPA must consider a wide range of possible exposure routes in its regulatory decisions. Further, the route of administration is essential to determine the effectiveness of a test system for the purposes of a specific toxicology study. The route of administration affects the real dosage rates, and therefore, affects whether the impact of the exposure of the test substance is acute or chronic.

Therefore, EPA believes that, for its purposes, it is essential that the protocol contain the route of administration and the reason for its choice. This requirement will therefore remain in the EPA's TSCA GLP standards in § 792.120(a)(10).

e. EPA proposes to delete current § 792.120(a)(12) in its entirety. Currently, § 792.120(a)(12) requires that the protocol contain the method by which the degree of absorption of the test and control substance by the test system will be determined. EPA agrees with FDA's conclusion that this requirement is not necessary in the protocol.

f. In proposed § 792.120(a)(14), redesignated from current paragraph (a)(15), EPA proposes to conform with FDA's revised GLP regulations and require that the study director's signature be dated on the protocol.

EPA is proposing in § 792.3 that the study initiation date be defined as the date the protocol is signed by the study director. It is through the proposed requirement of § 792.120(a)(14), that the Agency will be able to identify the official study initiation date.

17. *Section 792.130 Conduct of a study.* a. FDA has modified 21 CFR 58.130(d) to provide that records of gross findings for a specimen from postmortem observations "should" be made available to the pathologist when examining that specimen's histopathology. EPA has chosen to retain the requirement that these records "shall," in all cases, be provided to a pathologist during study of the specimen.

EPA agrees with FDA's conclusion that for most studies it is important for the pathologist to have the records of gross findings available when examining a specimen histopathologically. However, it is FDA's contention that replacing the word "shall" with the word "should" will allow the histopathological evaluation of specimens in a "blind" fashion. EPA also recognizes that it may be appropriate for some studies to provide for "blinding" in histopathological evaluation. However, EPA maintains that, when specified by the protocol, the pathologist can accomplish "blinding," without violating § 792.130 by not looking at the records which have been provided. Therefore, it will remain EPA's requirement that the pathologist must have access to the records of gross findings when examining a specimen histopathologically.

b. In conformance with the revised FDA GLP regulations, in § 792.130(e), EPA proposes to replace the terms "computer" and "computer driven" with the term "automated data collection." EPA agrees with FDA that the terms "computer" or "computer driven" do not adequately reflect the data collection and storage technologies currently used by testing facilities. The Agency believes that the proposed term "automated data collection" provides a more appropriate description of the data collection and storage systems available for industry use.

18. *Section 792.135 Physical and chemical characterization studies.* EPA proposes to add § 792.135 in order to specify the provisions of the proposed TSCA GLP standards which will not apply to studies designed to determine the physical and chemical characteristics of a test, control, or reference substance. Most studies designed to determine the physical or chemical characteristics of a test, control, or reference substance rarely involve any modifications to the protocol or experimental design and are usually conducted in an assembly line fashion. Therefore, proposed § 792.135(a) relaxes the requirements of the GLP standards without compromising the quality or integrity of data generated from these studies.

However, in § 792.135(b), EPA is also proposing that the exemptions listed in proposed § 792.135(a) will not apply to studies designed to determine solubility, octanol water partition coefficient, volatility, and persistence of a test, control, or reference substance. These types of physical and chemical characterization studies are more complex in design, execution, and interpretation, and EPA does not believe that it can be assured of the quality and integrity of data generated from these studies without complete GLP compliance.

19. *Section 792.185 Reporting of study results.* In § 792.185(a)(5), EPA is proposing to require that the final report include information relating to the solubility, in addition to stability, of the test, control, or reference substance, if solubility information was important to the conduct of the experiment. This change is consistent with the proposed modifications to §§ 792.105(b) and 792.113(a)(2) (see the preamble discussion of proposed §§ 792.105(b) and 792.113(a)(2)).

20. *Section 792.190 Storage and retrieval of records and data.* a. In § 792.190(a), EPA proposes to conform to the revised FDA GLP regulations by modifying this section to state that specimens obtained from mutagenicity tests and specimens of blood, urine, feces, and biological fluids generated as a result of a study need *not* be retained. EPA is also proposing that § 792.190(a) state that specimens of soil, water, and plants obtained from environmental testing need *not* be retained. EPA agrees with FDA's conclusion that retention of these specimens beyond initial evaluation is burdensome and does not have a significant impact on the quality of a study.

b. As in the revised FDA GLPs, EPA proposes to revise § 792.190(e) by deleting the requirement that study materials which are retained in archives must be indexed specifically by test substance, date of study, test system, and nature of study. EPA agrees with FDA that the intent of this section is to require indexing of materials in such a way as to permit expedient retrieval from archives. EPA does not believe it is necessary to stipulate the specific indexing terms which must be used.

21. *Section 792.195 Retention of records.* a. EPA proposes to delete paragraphs (b)(2) and (3) of § 792.195, redesignate paragraph (b)(1) as (b), and amend paragraph (b) to require a retention period for documentation records, raw data, and specimens of 5 years from the date the results of any study are submitted to the Agency.

Currently, § 792.195(b) requires a retention period for records, raw data, and specimens under paragraph (b)(1) of 10 years following the effective date of the applicable final test rule and, under paragraph (b)(2) of 10 years following the publication date of the acceptance of a negotiated test agreement. This section also recommends a retention period for such materials of 5 years following the date studies are submitted to the Agency under TSCA section 5.

As stated in the preamble to the 1983 TSCA GLP regulation (48 FR 53935; November 29, 1983), EPA believes that it is essential that study records, raw data, and specimens be maintained to provide the Agency with a sufficient period of time to review the study results and implement any appropriate regulatory actions. Further, it is essential that records, raw data, and specimens be available to suppport Agency decisions in case of court challenges to those decisions. However, the Agency sees no reason to vary record retention requirements and has concluded that a record retention period of 5 years from the date the study is submitted to EPA is a sufficient period of time to meet the Agency concerns and goals. Finally, the record retention period proposed in § 792.195(b) is preferable to the timeframes currently required because it is consistent with the requirements currently set forth in the FIFRA GLPs, in 40 CFR 160.195(b)(2), and the FDA Good Laboratory Practice regulations in 21 CFR 58.195(b).

b. In § 792.195, EPA proposes to delete the examples provided in the first sentence of paragraph (c). EPA has proposed this change in conformity with FDA's recent revision because EPA agrees with FDA that these examples do not clarify which materials must be retained from a study and, therefore, are not necessary in this section.

c. EPA is also proposing to modify § 792.195(c) to state that specimens obtained from mutagenicity tests, specimens of soil, water, and plants, and wet specimens of blood, urine, feces, biological fluids, do not need to be retained beyond quality assurance review. This change has been adopted in order to be consistent with the change discussed in proposed § 792.190(a).

d. In new § 792.195(i), EPA proposes to allow records and other "raw data" required by these regulations to be retained either as original records or as true copies, such as photocopies, microfiche, or other accurate reproductions of the original records. This provision would be incorporated in the TSCA GLPs in § 792.195(i) in order to be consistent with the changes to FDA's Good Laboratory Practice regulations.

II. Economic Analysis

The proposal to expand coverage of the TSCA GLP standards to testing conducted in the field is not expected to increase testing costs significantly. Further, the revisions to the TSCA GLP standards which reflect the FDA GLP revisions primarily provide relief from the original GLP standards (ICF 1987). Therefore, these amendments to the TSCA GLPs are not expected to have a significant economic impact on testing under TSCA.

III. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether a rule is a "major" one and is therefore subject to the requirement of a Regulatory Impact Analysis. The proposed amendments of the TSCA Good Laboratory Practice Standards would not be a major rule because they do not meet any of the criteria set forth and defined in section 1(b) of the Order.

B. Regulatory Flexibility Act

The proposed amendments to the TSCA GLP standards are not expected to have a significant impact on a substantial number of small businesses since little or no economic impact is expected from the revision overall.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070–0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 792

Good laboratory practices, Laboratories, Environmental protection, Hazardous materials, Chemicals, Recordkeeping and reporting requirements.

Dated: December 8, 1987.

Lee M. Thomas,

Administrator.

Therefore, it is proposed that 40 CFR Part 792 be amended as follows:

PART 792—[AMENDED]

1. The authority citation for Part 792 is revised to read as follows:

Authority: 15 U.S.C. 2603.

2. In § 792.1, by revising paragraphs (a) and (c) to read as follows:

§ 792.1 Scope.

(a) This part prescribes good laboratory practices for conducting studies relating to health effects, environmental effects, and chemical fate testing. This part is intended to ensure the quality and integrity of data submitted pursuant to testing consent agreements and test rules issued under section 4 of the Toxic Substances

Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2006, 15 U.S.C. 2603 et seq.).

* * * * *

(c) It is the Agency's policy that all data developed under section 5 of TSCA be in accordance with provisions of this part. If data are not developed in accordance with the provisions of this part, the Agency will consider such data insufficient to evaluate the health and environmental effects of the chemical substances unless the submitter provides additional information demonstrating that the data are reliable and adequate.

3. In § 792.3, by removing the alphabetical paragraph designations in paragraphs (a) through (q); by revising the definitions for "Control substance", "Study," and "Test system"; by replacing the term "Test substance or mixture" with "Test substance"; by amending the definition for "Sponsor" by revising paragraph (2) thereunder; and by adding and alphabetically inserting definitions for "Carrier", "Experimental start date", "Experimental termination date", "Reference substance", "Study completion date", "Study initiation date", and "Vehicle", to read as follows:

§ 792.3 Definitions.

* * * * *

"Carrier" means any material (e.g., feed, water, soil, nutrient media) with which the test substance is combined for administration to test organisms.

"Control substance" means any chemical substance or mixture or any other material other than a test substance, feed, or water that is administered to the test system in the course of study for the purpose of establishing a basis for comparison with the test substance for no effect levels.

* * * * *

"Experimental start date" means the first date the test substance is applied to the test system.

"Experimental termination date" means the last date on which data are collected directly from the study.

* * * * *

"Reference substance" means any chemical substance or mixture or material other than a test substance, feed, or water that is administered to or used in analyzing the test system in the course of a study for purposes of establishing a basis for comparison with the test substance for known effect levels.

* * * * *

"Sponsor" means:

* * * * *

(2) A person who submits a study to the EPA in response to a TSCA section 4(a) test rule and/or a person who submits a study under a TSCA section 4 testing consent agreement or a TSCA section 5 rule or order to the extent the agreement, rule or order references this part; or

* * * * *

"Study" means any experiment in which a test substance is studied in a test system under laboratory conditions or in the environment to determine or help predict its effects, metabolism, environmental and chemical fate, persistence, or other characteristics in humans, other living organisms, or media. The term does not include basic exploratory studies carried out to determine whether a test substance has any potential utility.

"Study completion date" means the date the final report is signed by the study director.

* * * * *

"Study initiation date" means the date the protocol is signed by the study director.

* * * * *

"Test substance" means a substance or mixture administered or added to a test system in a study, which substance or mixture is used to develop data to meet the requirements of a TSCA section 4(a) test rule and/or is developed under a TSCA section 4 testing consent agreement or section 5 rule or order to the extent the agreement, rule or order references this part.

"Test system" means any animal, plant, microorganism, chemical or physical matrix (e.g., soil or water), or subparts thereof, to which the test, control, or reference substance is administered or added for study. "Test system" also includes appropriate groups or components of the system not treated with the test, control, or reference substance.

* * * * *

"Vehicle" means any agent which facilitates the mixture, dispersion, or solubilization of a test substance with a carrier.

4. In § 792.12, by revising the introductory text to read as follows:

§ 792.12 Statement of compliance or non-compliance.

Any person who submits to EPA a test required by a testing consent agreement or a test rule issued under section 4 of TSCA shall include in the submission a true and correct statement, signed by the sponsor and the study director, of one of the following types:

* * * * *

5. In § 792.17, by revising the introductory text of paragraph (a) and paragraph (c) to read as follows:

§ 792.17 Effects of non-compliance.

(a) The sponsor or any other person who is conducting or has conducted a test to fulfill the requirements of a testing consent agreement or a test rule issued under section 4 of TSCA will be in violation of section 15 of TSCA if:

* * * * *

(c) If data submitted to fulfill a requirement of a testing consent agreement or a test rule issued under section 4 of TSCA are not developed in accordance with this part, EPA may determine that the sponsor has not fulfilled its obligations under section 4 of TSCA and may require the sponsor to develop data in accordance with the requirements of this part in order to satisfy such obligations.

6. In § 792.29, by revising paragraphs (d), (e), and (f) to read as follows:

§ 792.29 Personnel.

* * * * *

(d) Personnel shall take necessary personal sanitation and health precautions designed to avoid contamination of test, control, and reference substances and test systems.

(e) Personnel engaged in a study shall wear clothing appropriate for the duties they perform. Such clothing shall be changed as often as necessary to prevent microbiological, radiological, or chemical contamination of test systems and test, control, and reference substances.

(f) Any individual found at any time to have an illness that may adversely affect the quality and integrity of the study shall be excluded from direct contact with test systems, test, control, and reference substances and any other operation or function that may adversely affect the study until the condition is corrected. All personnel shall be instructed to report to their immediate supervisors any health or medical conditions that may reasonably be considered to have an adverse effect on a study.

7. In § 792.31, by revising paragraph (b) to read as follows:

§ 792.31 Testing facility management.

* * * * *

(b) Replace the study director promptly if it becomes necessary to do so during the conduct of a study.

* * * * *

8. In § 792.35, by revising paragraphs (a) and (b) (1) and (3) and removing paragraph (e) to read as follows:

§ 792.35 Quality assurance unit.

(a) A testing facility shall have a quality assurance unit which shall be responsible for monitoring each study to assure management that the facilities, equipment, personnel, methods, practices, records, and controls are in conformance with the regulations in this part. For any given study, the quality assurance unit shall be entirely separate from and independent of the personnel engaged in the direction and conduct of that study.

(b) * * *

(1) Maintain a copy of a master schedule sheet of all studies conducted at the testing facility indexed by test substance and containing the test system, nature of study, date study was initiated, current status of each study, identity of the sponsor, and name of the study director.

* * * * *

(3) Inspect each study at intervals adequate to ensure the integrity of the study and maintain written and properly signed records of each periodic inspection showing the date of the inspection, the study inspected, the phase or segment of the study inspected, the person performing the inspection, findings and problems, action recommended and taken to resolve existing problems, and any scheduled date for re-inspection. Any problems which are likely to affect study integrity found during the course of an inspection shall be brought to the attention of the study director and management immediately.

* * * * *

9. By revising § 792.41 to read as follows:

§ 792.41 General.

Each testing facility shall be of suitable size and construction to facilitate the proper conduct of studies. Testing facilities which are not located within an indoor controlled environment shall be of suitable location to facilitate the proper conduct of studies. Testing facilities shall be designed so that there is a degree of separation that will prevent any function or activity from having an adverse effect on the study.

10. By revising § 792.43 to read as follows:

§ 792.43 Test system care facilities.

(a) A testing facility shall have a sufficient number of animal rooms or other test system areas, as needed, to ensure: proper separation of species or test systems, isolation of individual projects, quarantine or isolation of animals or other test systems, and routine or specialized housing of animals or other test systems.

(1) In tests with plants or aquatic animals, proper separation of species can be accomplished within a room or area by housing them separately in different chambers or aquaria. Separation of species is unnecessary where the protocol specifies the simultaneous exposure of two or more species in the same chamber, aquarium, or housing unit.

(2) Aquatic toxicity tests for individual projects shall be isolated to the extent necessary to prevent cross-contamination of different chemicals used in different tests.

(b) A testing facility shall have a number of animal rooms or other test system areas separate from those described in paragraph (a) of this section to ensure isolation of studies being done with test systems or test, control, and reference substances known to be biohazardous, including volatile substances, aerosols, radioactive materials, and infectious agents.

(c) Separate areas shall be provided, as appropriate, for the diagnosis, treatment, and control of laboratory test system diseases. These areas shall provide effective isolation for the housing of test systems either known or suspected of being diseased, or of being carriers of disease, from other test systems.

(d) Facilities shall have proper provisions for collection and disposal of contaminated water, soil, or other spent materials. When animals are housed, facilities shall exist for the collection and disposal of all animal waste and refuse or for safe sanitary storage of waste before removal from the testing facility. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, disease hazards, and environmental contamination.

(e) Facilities shall have provisions to regulate environmental conditions (e.g., temperature, humidity, photoperiod) as specified in the protocol.

(f) For marine test organisms, an adequate supply of clean sea water or artificial sea water (prepared from deionized or distilled water and sea salt mixture) shall be available. The ranges of composition shall be as specified in the protocol.

(g) For freshwater organisms, an adequate supply of clean water of the appropriate hardness, pH, and temperature, and free of contaminants capable of interfering with the study shall be available as specified in the protocol.

(h) For plants, an adequate supply of soil of the appropriate composition, as specified in the protocol, shall be available as needed.

11. By revising § 792.45 to read as follows:

§ 792.45 Test system supply facilities.

(a) There shall be storage areas, as needed, for feed, nutrients, soils, bedding, supplies, and equipment. Storage areas for feed, nutrients, soils, and bedding shall be separated from areas housing the test systems and shall be protected against infestation or contamination. Perishable supplies shall be preserved by appropriate means.

(b) When appropriate, plant supply facilities shall be provided. These include:

(1) Facilities, as specified in the protocol, for holding, culturing, and maintaining algae and aquatic plants.

(2) Facilities, as specified in the protocol, for plant growth (e.g., greenhouses, growth chambers, light banks).

(c) When appropriate, facilities for aquatic animal tests shall be provided. These include aquaria, holding tanks, ponds, and ancillary equipment, as specified in the protocol.

12. By revising § 792.47 to read as follows:

§ 792.47 Facilities for handling test, control, and reference substances.

(a) As necessary to prevent contamination or mixups, there shall be separate areas for:

(1) Receipt and storage of the test, control, and reference substances.

(2) Mixing of the test, control, and reference substances with a carrier, e.g., feed.

(3) Storage of the test, control, and reference substance mixtures.

(b) Storage areas for test, control, and/or reference substance and for test, control, and/or reference mixtures shall be separate from areas housing the test systems and shall be adequate to preserve the identity, strength, purity, and stability of the substances and mixtures.

13. By revising § 792.49 to read as follows:

§ 792.49 Laboratory operation areas.

Separate laboratory space and other space shall be provided, as needed, for the performance of the routine and specialized procedures required by studies.

§ 792.53 [Removed]

14. By removing § 792.53 *Administrative and personnel facilities.*

15. By revising § 792.61 to read as follows:

§ 792.61 Equipment design.

Equipment used in the generation, measurement, or assessment of data and equipment used for facility environmental control shall be of appropriate design and adequate capacity to function according to protocol and shall be suitably located for operation, inspection, cleaning, and maintenance.

16. In § 792.63, by revising paragraph (b) to read as follows:

§ 792.63 Maintenance and calibration of equipment.

* * * * *

(b) The written standard operating procedures required under § 792.81(b)(11) shall set forth in sufficient detail the methods, materials, and schedules to be used in the routine inspection, cleaning, maintenance, testing, calibration, and/or standardization of equipment, and shall specify, when appropriate, remedial action to be taken in the event of failure or malfunction of equipment. The written standard operating procedures shall designate the person responsible for the performance of each operation.

* * * *

17. In § 792.81, by revising paragraphs (b) (1), (2), (3), (5), (6), (7), and (12) and (c) to read as follows:

„ 792.81 Standard operating procedures.

* * * * *

(b) * * *

(1) Test system room preparation.

(2) Test system care.

(3) Receipt, identification, storage, handling, mixing, and method of sampling of the test, control, and reference substances.

* * * * *

(5) Laboratory or other tests.

(6) Handling of test systems found moribund or dead during study.

(7) Necropsy of test systems or postmortem examination of test systems.

* * * * *

(12) Transfer, proper placement, and identification of test systems.

(c) Each laboratory or other study area shall have immediately available manuals and standard operating procedures relative to the laboratory or field procedures being performed. Published literature may be used as a supplement to standard operating procedures.

* * * * *

18. By revising § 792.90 to read as follows:

§ 792.90 Animal and other test system care.

(a) There shall be standard operating procedures for the housing, feeding, handling, and care of animals and other test systems.

(b) All newly received test systems from outside sources shall be isolated and their health status or appropriateness for the study evaluated. This evaluation shall be in accordance with acceptable veterinary medical practice or scientific practice.

(c) At the initiation of a study, test systems shall be free of any disease or condition that might interfere with the purpose or conduct of the study. If during the course of the study, the test systems contract such a disease or condition, the diseased test systems should be isolated, if necessary. These test systems may be treated for disease or signs of disease provided that such treatment does not interfere with the study. The diagnosis, authorization of treatment, description of treatment, and each date of treatment shall be documented and shall be retained.

(d) Warm-blooded animals, adult reptiles, and adult terrestrial amphibians used in laboratory procedures that require manipulations and observations over an extended period of time or in studies that require these test systems to be removed from and returned to their test system-housing units for any reason (e.g., cage cleaning, treatment, etc.), shall receive appropriate identification (e.g., tattoo, toe clip, color code, ear tag, ear punch, etc.). All information needed to specifically identify each test system within the test system-housing unit shall appear on the outside of that unit. Suckling mammals and juvenile birds are excluded from the requirement of individual identification unless otherwise specified in the protocol.

(e) Except as specified in paragraph (e)(1) of this section, test systems of different species shall be housed in separate rooms when necessary. Test systems of the same species, but used in different studies, should not ordinarily be housed in the same room when inadvertent exposure to test, control, or reference substances or test system mixup could affect the outcome of either study. If such mixed housing is necessary, adequate differentiation by space and identification shall be made.

(1) Plants, invertebrate animals, aquatic vertebrate animals, and organisms that may be used in multispecies tests need not be housed in separate rooms, provided that they are adequately segregated to avoid mixup and cross contamination.

(2) [Reserved]

(f) Cages, racks, pens, enclosures, aquaria, holding tanks, ponds, growth chambers, and other holding, rearing, and breeding areas, and accessory equipment, shall be cleaned and sanitized at appropriate intervals.

(g) Feed, soil, and water used for the test systems shall be analyzed periodically to ensure that contaminants known to be capable of interfering with the study and reasonably expected to be present in such feed, soil, or water are not present at levels above those specified in the protocol. Documentation of such analyses shall be maintained as raw data.

(h) Bedding used in animal cages or pens shall not interfere with the purpose or conduct of the study and shall be changed as often as necessary to keep the animals dry and clean.

(i) If any pest control materials are used, the use shall be documented. Cleaning and pest control materials that interfere with the study shall not be used.

(j) All plant and animal test organisms shall be acclimatized, prior to their use in an experiment, to the environmental conditions of the test.

Subpart F—Test, Control, and Reference Substances

19. By revising the heading for Subpart F to read as set forth above.

20. By revising § 792.105 to read as follows:

§ 792.105 Test, control and reference substance characterization.

(a) The identity, strength, purity, and composition, or other characteristics which will appropriately define the test, control, or reference substance shall be determined for each batch and shall be documented before its use in an experiment. Methods of synthesis, fabrication, or derivation of the test, control, or reference substance shall be documented by the sponsor or the testing facility.

(b) The stability and, when relevant to the conduct of the experiment, the solubility of each test, control, or reference substance shall be determined by the testing facility or by the sponsor before the experimental start date. Where periodic analysis of each batch is required by the protocol, there shall be written standard operating procedures that shall be followed.

(c) Each storage container for a test, control, or reference substance shall be labeled by name, chemical abstracts service number (CAS) or code number, batch number, expiration date, if any, and, where appropriate, storage conditions necessary to maintain the

identity, strength, purity, and composition of the test, control, or reference substance. Storage containers shall be assigned to a particular test substance for the duration of the study.

(d) For studies of more than 4 weeks' duration, reserve samples from each batch of test, control, and reference substances shall be retained for the period of time provided by § 792.195.

(e) The stability of test, control, and reference substances under test conditions shall be known for all studies.

21. In § 792.107, by revising the section heading and introductory text to read as follows:

§ 792.107 Test, control, and reference substance handling.

Procedures shall be established for a system for the handling of the test, control, and reference substances to ensure that:

* * * * *

22. By revising § 792.113 to read as follows:

§ 792.113 Mixtures of substances with carriers.

(a) For each test, control, or reference substance that is mixed with a carrier, tests by appropriate analytical methods shall be conducted:

(1) To determine the uniformity of the mixture and to determine, periodically, the concentration of the test, control, or reference substance in the mixture.

(2) To determine the stability and, when relevant to the conduct of the experiment, the solubility of the test, control, or reference substance in the mixture, before the experimental start date. Determination of the stability and solubility of the test, control, or reference substance in the mixture shall be done under the environmental conditions specified in the protocol and as required by the conditions of the experiment. Where periodic analysis of the mixture is required by the protocol, there shall be written standard operating procedures that shall be followed.

(b) Where any of the components of the test, control, or reference substance carrier mixture has an expiration date, that date shall be clearly shown on the container. If more than one component has an expiration date, the earliest date shall be shown.

(c) If a vehicle is used to facilitate the mixing of a test substance with a carrier, assurance shall be provided that the vehicle does not interfere with the integrity of the test.

23. In § 792.120, by revising paragraph (a) to read as follows:

§ 792.120 Protocol.

(a) Each study shall have an approved written protocol that clearly indicates the objectives and all methods for the conduct of the study. The protocol shall contain but shall not necessarily be limited to the following information:

(1) A descriptive title and statement of the purpose of the study.

(2) Identification of the test, control, and reference substance by name, chemical abstracts service (CAS) number or code number.

(3) The name and address of the sponsor and the name and address of the testing facility at which the study is being conducted.

(4) The proposed experimental start and termination dates.

(5) Justification for selection of the test system.

(6) Where applicable, the number, body weight, sex, source of supply, species, strain, substrain, and age of the test system.

(7) The procedure for identification of the test system.

(8) A description of the experimental design, including methods for the control of bias.

(9) Where applicable, a description and/or identification of the diet used in the study as well as solvents, emulsifiers and/or other materials used to solubilize or suspend the test, control, or reference substances before mixing with the carrier. The description shall include specifications for acceptable levels of contaminants that are reasonably expected to be present in the dietary materials and are known to be capable of interfering with the purpose or conduct of the study if present at levels greater than established by the specifications.

(10) The route of administration and the reason for its choice.

(11) Each dosage level, expressed in milligrams per kilogram of body or test system weight or other appropriate units, of the test, control, or reference substance to be administered and the method of frequency of administration.

(12) The type and frequency of test analyses, and measurements to be made.

(13) The records to be maintained.

(14) The date of approval of the protocol by the sponsor and the dated signature of the study director.

(15) A statement of the proposed statistical method.

* * * * *

24. In § 792.130, by revising paragraphs (d) and (e) to read as follows:

§ 792.130 Conduct of a study.

* * * * *

(d) In animal studies where histopathology is required, records of gross findings for a specimen from postmortem observations shall be available to a pathologist when examining that specimen histopathologically.

(e) All data generated during the conduct of a study, except those that are generated by automated data collection systems, shall be recorded directly, promptly, and legibly in ink. All data entries shall be dated on the day of entry and signed or initialed by the person entering the data. Any change in entries shall be made so as not to obscure the original entry, shall indicate the reason for such change, and shall be dated and signed or identified at the time of the change. In automated data collection systems, the individual responsible for direct data input shall be identified at the time of data input. Any change in automated data entries shall be made so as not to obscure the original entry, shall indicate the reason for change, shall be dated, and the responsible individual shall be identified.

25. By adding § 792.135 to read as follows:

§ 792.135 Physical and chemical characterization studies.

(a) Except as provided in paragraph (b) of this section, the following provisions shall not apply to studies designed to determine physical and chemical characteristics of a test, control, or reference substance:

§ 792.31 (c), (d), and (g)
§ 792.35 (b) and (c)
§ 792.43
§ 792.45
§ 792.47
§ 792.49
§ 792.81(b) (1), (2), (6) through (9), and (12)
§ 792.90
§ 792.105 (a) through (d)
§ 792.113
§ 792.120(a) (5) through (12), and (15)
§ 792.185(a) (5) through (8), (10), (12), and (14)
§ 792.195 (c) and (d).

(b) The exemptions provided in paragraph (a) of this section shall not apply to physical/chemical characterization studies designed to determine solubility, octanol water partition coefficient, volatility, and persistence (such as biodegradation, photodegradation, and chemical degradation studies), and such studies shall be conducted in accordance with this part.

26. In § 792.185, by revising paragraphs (a) (4) and (5) to read as follows:

§ 792.185 Reporting of study results.

(a) * * *

(4) The test, control, and reference substances identified by name, chemical abstracts service (CAS) number or code number, strength, purity, and composition, or other appropriate characteristics.

(5) Stability and, when relevant to the conduct of the experiment, the solubility of the test, control, and reference substances under the conditions of administration.

* * * * *

27. In § 792.190, by revising paragraphs (a) and (e) to read as follows:

§ 792.190 Storage and retrieval of records and data.

(a) All raw data, documentation, records, protocols, specimens, and final reports generated as a result of a study shall be retained. Specimens obtained from mutagenicity tests, specimens of soil, water, and plants, and wet specimens of blood, urine, feces, and biological fluids, do not need to be retained beyond quality assurance review. Correspondence and other documents relating to interpretation and evaluation of data, other than those documents contained in the final report, also shall be retained.

* * * * *

(e) Material retained or referred to in the archives shall be indexed to permit expedient retrieval.

28. In § 792.195, by revising paragraphs (b) and (c), and adding paragraph (i), to read as follows:

§ 792.195 Retention of records.

* * * * *

(b) Except as provided in paragraph (c) of this section, documentation records, raw data, and specimens pertaining to a study and required to be retained by this part shall be retained in the archive(s) for a period of at least 5 years following the date on which the results of the study are submitted to EPA.

(c) Wet specimens, samples of test, control, or reference substances, and specially prepared material, which are relatively fragile and differ markedly in stability and quality during storage, shall be retained only as long the quality of the preparation affords evaluation. Specimens obtained from mutagenicity tests, specimens of soil, water, and plants, and wet specimens of blood, urine, feces, biological fluids, do not need to be retained beyond quality assurance review. In no case shall retention be required for longer periods than those set forth in paragraph (b) of this section.

* * * * *

(i) Records required by this part may be retained either as original records or as true copies such as photocopies, microfilm, microfiche, or other accurate reproductions of the original records.

Subpart L—[Removed]

29. By removing Subpart L—*Environmental Testing Provisions*, consisting of §§ 792.225, 792.226, 792.228, and 792.232.

[FR Doc. 87-29512 Filed 12-24-87; 8:45 am]

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federal register

Monday
December 28, 1987

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 13 and 21

Migratory Bird Permits; Uniform Rules and Procedures; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wild ife Service

50 CFR Parts 13 and 21

Migratory Birds Permits; Uniform Rules and Procedures

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes changes in Part 13 of Title 50, Code of Federal Regulations which provide for the general administration of permits issued by the Service. The proposed rule clarifies the application procedures and the criteria for issuance. Factors which disqualify an applicant from being eligible for the issuance of a permit are established. Criteria for suspension and revocation of a permit are clearly stated, and the procedures for appealing a denial, suspension, or revocation of a permit are revised. The schedule of application processing fees is also amended.

The Service further proposes changes in Part 21 of 50 CFR relative to permits issued under authority of the Migratory Bird Treaty Act (16 U.S.C. 703–711). Some of these changes are technical in nature and deal with the period for which permits are issued and the definition of terms. Other changes are more substantive. The Service proposes significant changes to the falconry and raptor propagation permit regulations. These changes include removing the technical requirements for raptor facilities and equipment from the Federal falconry standards, and eliminating the requirement for banding the more common species of raptors used for falconry. The banding requirement will be retained for those species of raptors that the Service has determined to be "sensitive." The concept of a joint Federal-State falconry permit will no longer be used; however, an applicant will be required to have a falconry permit from a State with laws or regulations compatible with the Federal falconry standards before a Federal falconry permit will be issued. The acquisition, transfer, or disposition of any raptor must be reported on a Service form to the office that issued the Federal falconry permit. Under the new rules, falconers will be authorized to sell or purchase lawfully acquired captive-bred raptors that are marked with a numbered, seamless band provided by the Service; however, falconers will be specifically prohibited from engaging in raptor propagation unless they hold a separate raptor propagation permit.

In addition to changes in the falconry permit some changes in the requirements for raptor propagation permits are proposed. These include elimination of facilities and equipment requirements, clarification of the marking requirement, and the requirement that each acquisition, transfer, or disposition of any raptor must be reported on a Service form to the office that issued the permit.

Other changes in Part 21 include amending the special purpose permit regulations to allow the sale of captive-bred, migratory game birds, other than waterfowl. In addition the Service intends to reimpose the requirement for a permit to import and export certain migratory birds.

DATES: Comments must be submitted on or before February 26, 1988.

ADDRESSES: Comments and materials concerning this proposal should be sent to U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O Box 28006, Washington, DC 20038–8006. Comments and materials may be delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, Room 300, Hamilton Building, 1375 K Street NW., Washington, DC, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Thomas L. Striegler at the above address [202/343–9242 or FTS 343–9242].

SUPPLEMENTARY INFORMATION:

Background

Wildlife conservation laws of the United States generally proscribe specific activities related to the wildlife that is the subject of each statute. However, many of these statutes establish procedures through which the Secretary of the Interior (Secretary) may authorize otherwise prohibited activities, either through regulations or by issuing a permit. By Department of the Interior (Department) policy the authority to promulgate regulations and to issue permits under authority of the various wildlife conservation statutes has been delegated to the Service. Regulations issued by the Service under this delegation of authority are codified in Chapters I and IV of Title 50, Code of Federal Regulations (50 CFR). Subchapter B of Chapter I (Subchapter B) contains the regulations issued by the Service relating to the taking, possession, importation, exportation, transportation, sale, purchase, and barter of wildlife and plants.

Under the Service's current regulatory scheme, Part 13 of 50 CFR contains general procedures for the application, issuance, renewal, suspension, revocation and general administration of permits issued by the Service. The last major revision of Part 13 occurred in 1974, and the Service believes that general review of its basic permit procedures was appropriate.

Part 21 of 50 CFR contains regulations relating to migratory bird permits. These regulations are promulgated under authority of the Migratory Bird Treaty Act (16 U.S.C. 703–711) which implements a series of bilateral treaties for the protection of migratory birds. The intent of this regulatory effort was to review and, if appropriate, modify the regulations found in §§ 21.28, 21.29 and 21.30 relating to falconry and raptor propagation. This review was based upon a concern by both the Service and the public that some regulatory reform might be indicated by the results of a series of Service undercover investigations collectively known as "Operation Falcon." However, the Service has determined that a general review of the regulations relating to migratory bird permits would be beneficial to both the migratory bird resource and to the public.

General Permit Procedures (Part 13)

In its review of Part 13, the Service identified several areas in which changes could be made to clarify policy and provide more effective procedures for the general administration of permits. Most of the changes proposed are technical in nature and are designed to provide the public with a better understanding of the Service's policy.

Some modifications have been proposed in the application procedures for permits. Specifically, the term "Special Agent in Charge" has been changed to "Assistant Regional Director for Law Enforcement" to reflect the current organizational title of these officials. The time in which applications should be submitted to the issuing office, other than the Federal Wildlife Permit Office, has been increased from 30 days to 60 days prior to the requested date of the permit to more realistically reflect the time required to process applications. It is proposed to charge a $25.00 processing fee for migratory bird permits. This is consistent with the fees charged for most other permits issued by the Service and with the policy of the Federal government to require users of special government services to reimburse the government for the costs of those services. It is also proposed that § 13.13 relating to the abandonment of a permit application be incorporated into § 13.11 and revised to reduce the time at which an application is considered

abandoned from 60 days to 30 days from the date of notification of deficiency. Finally, technical language changes have been proposed for § 13.12 to clarify the general information required on applications for permits.

Substantial changes have been proposed in Subpart C relating to permit administration. The criteria for issuance of any permit have been rewritten to clearify language. In addition, the Service proposes the establishment of certain disqualifying factors. Any applicant who meets one of these factors is disqualified from receiving a permit from the Service for the time specified by the factor involved. Under these disqualifying factors, any person who has been convicted of, or pleaded guilty or nolo contendere to a felony violation involving wildlife of any law of the United States or of any State is disqualified for life from receiving any permit from the Service. Such lifetime disqualification is consistent with other sanctions imposed against convicted felons including disenfranchisement and loss of the right to possess firearms.

The conviction, entry of a plea of guilty or nolo contendere, or the assessment of a civil penalty for any violation of any statute or regulation relating to the permitted activity disqualifies the applicant for a period of five years. In addition, the issuing officer may consider any such violation in determining whether to issue or deny any future permit. Any applicant who has had a permit revoked will be disqualified from receiving a permit for a period of five years from the date of expiration of the revoked permit, and the issuing officer may consider any such revocation in determining whether to issue or deny any future permit. Finally, failure to pay any fees, assessed costs, penalties, or other debts owed to the Service disqualifies an applicant until such are paid.

A new section relating to the suspension and revocation of permits has been added. This section clearly establishes conditions under which a permit may be suspended or revoked. In addition the appeal procedures have been revised to ensure due process for those persons appealing adverse decisions on the part of the Service. Other clarifying language changes have been made to several other sections of Part 13 to assist the public in understanding the Service's policies.

Migratory Bird Permits (Part 21)

The primary purpose of the Service's review of the migratory bird permit regulations was to determine if changes were needed in the regulations relating to falconry and raptor propagation. While the Service used this opportunity to re-examine all of its migratory bird permit regulations, its main focus was on §§ 21.28 (falconry permits), 21.29 (Federal falconry standards), and 21.30 (raptor propagation permits). Substantial changes are proposed in the falconry permit regulations, in the Federal falconry standards, and in the raptor propagation regulations. Changes have also been proposed to other migratory bird permits. These include amending the special purpose permit regulations to allow the sale of captive bred migratory game birds and the reinstatement of the permit requirement to import and export certain migratory birds. Other technical changes are made to clarify language and to facilitate permit administration.

In reviewing the falconry permit regulations, the Service identified certain raptor species that it believes are in need of special control either because of biological or law enforcement considerations. These species have been included in the definition of a new term, "sensitive raptors." Under the current proposal, sensitive raptors include the peregrine falcon (*Falco peregrinus*), the gyrfalcon (*Falco rusticolus*), the Harris hawk (*Parabuteo unicinctus*), and the prairie falcon (*Falco mexicanus*). The peregrine falcon is included because most of the North American subspecies are listed as either endangered or threatened. The gyrfalcon is listed as a sensitive raptor because of its listing on Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention). The Harris hawk is listed because biological indications point to a declining population in the United States. Finally, the prairie falcon is included because its popularity for use in falconry has often made it a target for illegal taking from the wild.

The Service proposes to eliminate the concept of a joint Federal-State falconry permit. While this concept was originally introduced to reduce administrative work on the part of the Service and State conservation organizations and to provide less of a burden on the public, the Service believes that it has not accomplished either goal. To be effectively administered, the joint Federal-State permit requires review and approval by both participating agencies which generally consume as much time on the part of each agency as the issuance of separate permits. Further, although State agencies are required to meet Federal falconry standards to participate in the joint program, conflicting requirements concerning issuance, renewal, suspension and revocation of permits often create a situation that is not conducive to effective permit administration by either agency. Under the proposed rules, the Service would require that any applicant for a Federal falconry permit first obtain a falconry permit from a State whose laws and regulations are in conformance with the Federal falconry standards.

The proposed rules would eliminate the requirement for banding raptors used for falconry, except for those that are defined as sensitive raptors. Operation Falcon demonstrated that the adjustable plastic bands are, on occasion, subject to international manipulation for illegal purposes. Therefore, the Service will be introducing a new, metal, tamper resistant band for marking raptors other than those captive produced birds that are eligible for sale. However, banding will be limited to only those species designated as sensitive raptors.

The new band proposed by the Service is made of aluminum, and sizes range from 7mm (0.28 inches) to 26mm (1.02 inches). These bands will be stamped with a 3-digit agency identification number and a 5-digit serial number. The bands are secured around the bird's leg by closing the aluminum ring with a crimping tool, inserting a stainless steel pin through holes at the crimped ends of the band, and then crimping the pin in place. A band sealed in this manner cannot be opened and then resealed without detection.

The Service is also eliminating the requirement for an annual report for falconry permits. Instead, the Service proposes to institute a requirement that a form 3–186A, Migratory Bird Acquisition/Disposition Report, must be completed and submitted to the permit issuing office each time any raptor is acquired or disposed of by any means, including accidental loss or death. The Service will establish an implementation period during which raptors currently in possession may be banded and a form 3–186A submitted. The Service intends to enter the information from each of these forms into a raptor monitoring system to maintain statistics concerning the effects of falconry on the raptor resource and to track individual raptors.

Other changes in the falconry permit regulations include a specific prohibition against the propagation of raptors without a raptor propagation permit. While this has always been the intent of Service regulations, the current regulations are not clear on this issue. The proposed rules would allow falconers to sell or barter captive bred raptors that are marked with a

numbered, seamless band provided by the Service in accordance with the provisions of § 21.30. In addition the term of the falconry permit has been changed from two years to three years. Other technical changes have been made in the falconry permit regulations to clarify language and policy.

Several changes are proposed for the Federal falconry standards found in § 21.29. Under this proposal the Service would no longer require States to establish minimum requirements for facilities and equipment, nor to administer an examination as a requirement for issuing a falconry permit. The Service does not impose such conditions on other types of permits under which a person may possess live wildlife and believes it is inconsistent to do so for falconry permits. The marking requirements are modified to conform with the proposal that only sensitive raptors must be banded. States may also allow falconers to sell or barter properly marked, captive bred raptors. Finally, the Service will no longer certify nor publish a list of States whose regulations are in compliance with Federal falconry standards, although the Service will not issue a Federal falconry permit to any person who does not possess a valid falconry permit issued by a State that is in conformance with these standards.

The proposed rules would eliminate the minimum requirements for facilities for a raptor propagation permit for the same reason that such requirements are being eliminated from the Federal falconry standards. The marking requirements for raptors held under authority of a raptor propagation permit are clarified to require that all such raptors, regardless of species, must be banded with either a numbered, seamless band or the new nonreusable band supplied by the Service. A requirement to document each acquisition, including hatching, and each disposition, including death or accidental loss, using the form 3–186A, Migratory Bird Acquisition/Disposition Report, is proposed. The term of the permit is changed from five years to three years to be consistent with other migratory bird permits. Other technical changes have been made in the raptor propagation permit regulations to clarify language and policy.

In addition to the proposed changes in regulations relating to falconry and raptor propagation, the Service is proposing to reinstitute the requirement that a permit be obtained prior to importing or exporting certain migratory birds. Such a requirement was historically part of the Service's permit scheme, but was eliminated in 1981. However, the Service now believes that this elimination is inconsistent with the general scope of its permit regulations. Throughout its regulatory scheme, the Service requires permits prior to the importation or exportation of wildlife protected by laws which generally prohibit such activity. Under this proposal, the Service would not require import permits for migratory game birds lawfully taken by sport hunters and imported in accordance with Subpart G of Part 20 of 50 CFR. Also exempt from this permit requirement would be the export of properly marked, captive bred waterfowl.

The Service is also proposing to amend the special permit regulations found in § 21.27 to permit the sale of properly marked, captive bred migratory game birds, other than waterfowl. Currently, a number of persons have special purpose permits authorizing the captive breeding of migratory game birds other than waterfowl, especially doves and cranes. Since current regulations permit the sale of properly marked, captive bred waterfowl and raptors, it is inconsistent to prohibit the sale of other captive bred migratory game birds. Marking and reporting requirements similar to those applicable to the sale of captive bred waterfowl and raptors will be required.

Certain technical administrative changes are proposed in the regulations to facilitate permit administration. Chiefly, the standard term of a permit will be changed from a two-year period ending on December 31 of the second year following issuance to a three-year term ending three years following the date of issuance. This change will stagger the renewal of permits throughout the year much as many States have done with automobile license renewals.

Finally, the Service has been petitioned by the Wildlife Information Center, Inc., Allentown, Pennsylvania, to amend its regulations to prohibit all uses of pole traps in the United States. This petition is based upon data provided indicating that significant injuries may occur to migratory birds that are caught in such traps. The Service decided to review this issue as part of this regulatory proposal. As a result of that review, the Service has determined that it has no statutory authority to prohibit the use of pole traps, per se, although the taking of migratory birds by the use of pole traps can be restricted. However, the Service does not believe that any regulatory changes are necessary to address this issue. Based on the Service's review, the only issue that should be addressed is the policy of whether the Service should issue permits that allow the use of pole traps for taking depredating migratory birds. A new, more restrictive policy has recently been issued by the director and no further action is contemplated.

Statement of Effects, Executive Order 12291, and Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this proposed rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). In 1986 there were approximately 229 permits for raptor propagation, 2,783 permits for falconry, 3,145 import/export licenses, and 13,938 permits issued for other purposes. The only effect upon all permittees will be clarification of the conditions of their permits and licenses, which should improve efficiency with little cost to the general public. The initiation of user fees for those permits not currently requiring fees will have negligible impact because the fees will only amount to $25.00 for each permit. The length of most permits has been extended from two years to three years, thus decreasing the cost per year to those permittees who have previously been charged a fee and making the annual cost to new permittees only $8.34 per year.

The information collection requirements contained in this proposal have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1018–0022. To the extent that changes in 50 CFR Parts 13 and 21 require additional approval from the Office of Management and Budget that approval will be sought and collection of such information will not be required until such approval is obtained.

Environmental Effects

An environmental assessment on falconry and raptor propagation regulations has been prepared by the Service's Office of Migratory Bird Management in connection with this proposed rulemaking. This environmental assessment is available for public inspection in Room 536, Matomic Building, 1717 H Street NW., Washington, DC. Prior rulemakings dealing with falconry and raptor propagation were covered by environmental assessments prepared in 1976 and 1982. Changes in the regulations published in Part 13 and in sections of Part 21 other than §§ 21.28

through 21.30 are internal organizational changes or are regulatory and enforcement actions which are covered by a categorical exclusion from the National Environmental Policy Act procedures under 516 DM 2, Appendix I.

Author

The primary author of this proposed rule is Thomas L. Striegler, Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service.

List of Subjects

50 CFR Part 13

Administrative preactice and procedure, Exports, Fish, Imports, Penalties, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 21

Exports, Imports, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, Title 50, Chapter I, Subchapter B of the Code of Federal Regulations, is proposed to be amended as set forth below.

PART 13—GENERAL PERMIT PROCEDURES

1. The authority citation for Part 13 is revised to read as follows:

Authority: 18 U.S.C. 42; 16 U.S.C. 3374; 16 U.S.C. 704, 712; 16 U.S.C. 668a; 19 U.S.C. 1202; 16 U.S.C. 1539, 1540(f); 16 U.S.C. 1538(d); sec. E.E. 11911, 41 FR 15683, 3 CFR 1976 Comp., p. 112; 16 U.S.C. 742j–1; 16 U.S.C. 1382; 31 U.S.C. 9701.

2. Revise § 13.2 to read as follows:

§ 13.2 Purpose of regulations.

The regulations contained in this part will provide uniform rules, conditions, and procedures for the application for and the issuance, denial, amendment, renewal, suspension or revocation, and general administration of all permits issued pursuant to this Subchapter B.

3. Amend § 13.11 as follows: a. Add introductory paragraph as set out below.

b. In paragraph (b)(2) remove "Special Agent in Charge" and insert in lieu thereof "Assistant Regional Director, Division of Law Enforcement, in charge".

c. Revise paragraphs (c), and (d)(1) and (2) as set out below.

d Amend paragraph (d)(4) by revising the entry "Migratory Bird (Part 21)" under "Type of Permit" to read "Migratory Bird—Banding or marking (21.22)."

e. Add paragraph (e) as set out below.

§ 13.11 Application procedures.

No permit may be issued for any activity authorized by of this Subchapter B unless a completed application is filed in accordance with the following procedures. A separate application need not be submitted for each permit unless otherwise required by this subchapter.

* * * * *

(c) *Time notice.* The Service will process all applications as quickly as possible; however, it cannot guarantee final action within desired time frames. Applications for endangered species and marine mammal permits should be received by the Federal Wildlife Permit Office at least 90 calendar days prior to the effective date requested by the applicant. Applications for all other permits should be received by the issuing office at least 60 calendar days prior to the requested effective date.

(d) *Fees.* (1) Unless otherwise specifically exempted in this paragraph, applications for permits, certificates, licenses, registrations, and their renewals must be accompanied at the time of filing by payment in the form of a check or money order drawn payable to "U.S. Fish and Wildlife Service" in the full amount of any application processing or other fee required for the application or permitted activity. Such fees will not be refunded under any circumstances except that a fee submitted with an application which is withdrawn prior to significant processing may be returned by the issuing office.

(2) The fee for processing any application, except one listed as nonstandard in paragraph (d)(4) of this section, shall be $25.00. If regulations in this subchapter require more than one type of permit for a given activity, and the permits are issued by the same office, the issuing office may issue a single, consolidated permit containing all necessary authorizations and charge a single fee, which shall be the highest single fee applicable for the activity to be permitted.

* * * * *

(e) *Abandoned or incomplete applications.* Upon receipt of an incomplete or improperly executed application, or one which is not accompanied by the proper fees, the issuing office will notify the applicant of the deficiency. If the applicant fails to supply correct information to complete the application or to pay the required fees within 30 calendar days of the date of the notification the application shall be considered abandoned and no fees paid shall be returned.

4. Amend § 13.12 by revising paragraphs (a) introductory text and (a)(1) through (a)(5) as follows, removing paragraphs (a)(6) and (a)(7) and redesignating paragraphs (a)(8) through (a)(11) as paragraphs (a)(6) through (a)(9).

§ 13.12 General information requirements on applications for permits.

(a) *General information required for all applications.* All applications must contain the following information:

(1) Applicant's full name, mailing address, telephone number(s), and,

(i) If the applicant is an individual, the date of birth, height, weight, hair color, eye color, sex, and any business or institutional affiliation of the applicant related to the requested permitted activity; or,

(ii) If the applicant is a corporation, firm, partnership, association, institution, or public or private agency, the name and address of the president or principal officer and of the registered agent for the service of process;

(2) Location where the requested permitted activity is to occur or be conducted;

(3) Reference to the part(s) and section(s) of this Subchapter B as listed in paragraph (b) of this section under which the application is made for a permit or permits, together with any additional justification including supporting documentation as required by the reference part(s) and section(s);

(4) If the requested permitted activity involves the import or re-export of wildlife or plants from or to any foreign country, and the country of origin, or of export or re-export restricts the taking, possession, transportation, exportation or sale of wildlife or plants, documentation as indicated in § 14.52(c) of this Subchapter B;

(5) Certification in the following language:

> I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and of the other applicable parts in Subchapter B of Chapter I of Title 50, Code of Federal Regulations, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.

* * * * *

§ 13.12 [Amended]

5. Section 13.12(b) is further amended by removing the reference to "paragraph (a)(5)" and inserting in lieu thereof a reference to "paragraph (a)(3)".

§ 13.13 [Removed]

6. Remove § 13.13.

§ 13.14 [Removed]

7. Remove § 13.14

8. Revise Subpart C to read as follows:

Subpart C—Permit Administration

Sec.

Subpart C—Permit Administration

§ 13.21 Issuance of permits.

(a) *General.* No activity for which a permit, license, or registration is required may be undertaken by any person prior to receipt of a valid permit authorizing that activity. An oral or written representation by an employee or agent of the United States, or any action by any employee or agent of the United States, is not a permit unless it meets the requirements of a permit defined in 50 CFR 10.12.

(b) *Criteria for issuance.* No permit may be issued except in compliance with the following criteria:

(1) Receipt of a written, complete, and accurate application properly executed in accordance with § 13.11 and any other part(s) and section(s) governing the permitted activity;

(2) Receipt of payment of all applicable fees for the permitted activity;

(3) Finding by the issuing office that the applicant has demonstrated a valid justification for the permit, has made a showing of responsibility, and is otherwise qualified to exercise the authority or privilege provided by the permit requested; and

(4) Finding by the issuing officer that the authorization does not potentially threaten any wildlife or plant population.

(c) *Disqualifying factors.* Any one of the following will disqualify a person from receiving or retaining permits issued under this Part for the period set forth:

(1) Conviction, or entry of a plea of guilty or nolo contendere, for a felony violation involving wildlife of any law of the United States or any State disqualifies any such person from receiving or exercising the privileges of a permit for life.

(2) Conviction, entry of a plea of guilty or nolo contendere, or assessment of a civil or criminal penalty, for a violation of any statute or regulation relating to the activity for which the application is filed disqualifies any such person from receiving or exercising the privileges of a permit for five years; and the fact of such violation is a factor which shall be considered by any issuing officer in finding an applicant to be qualified or responsible to receive any future permits.

(3) No applicant who has had a permit revoked may be found to be qualified, nor may perform any activity authorized by a permit, for a period not less than five years from the expiration date of the revoked permit; and the fact of revocation is a factor which shall be considered by any issuing officer in finding an applicant to be qualified or responsible to receive any future permits.

(4) Failure to pay any required fees or assessed costs and penalties, whether or not reduced to judgment; or to submit timely, accurate, or valid reports as required shall be disqualifying as long as the deficiency exists.

(d) *Use of supplemental information.* An issuing office, in making a determination under this subsection, may use any information available, including the reports of state or local officials, and shall consider all relevant facts or information available. They may make independent inquiry or investigation to verify information or substantiate qualifications asserted by the applicant.

(e) *Conditions of issuance and acceptance.* (1) Any permit automatically incorporates within its terms the conditions and requirements of Subpart D of this part and of any part(s) or section(s) specifically authorizing or governing the activity for which the permit is issued.

(2) Any person accepting and holding a permit under this Subchapter B acknowledges the necessity for close regulation and monitoring of the permitted activities by the Government. By accepting such permit the permittee consents to and shall allow entry at any reasonable hour by agents or employees of the Service upon premises maintained for conduct of the permitted activity, for the purpose of inspecting the location; any books, records, or permits required to be kept by regulations of this Subchapter B; and any wildlife or plants which are the subject of the permit.

(f) *Term of permit.* Unless the permit is suspended or revoked, or its term is otherwise amended, a person may engage in the activity authorized by a permit for the period from and including the effective date of issue and to and including the expiration date endorsed on the face of the permit.

(g) *Denial.* The issuing office shall deny a permit to any applicant who fails to meet the issuance criteria set forth in this section or in any part(s) or section(s) specifically governing the activity for which a permit is requested.

§ 13.22 Renewal of permits.

(a) *Application for renewal* Applications for renewal must be made in writing, submitted at least 30 calendar days prior to the expiration date of the permit for which renewal is requested and, must certify that all statements and information made in the original application remain current and correct unless previously changed or corrected, or provide necessary corrections to the file including a certification concerning the validity of the information on file in the form as provided by § 13.12(a)(5).

(b) *Renewal criteria.* In order for renewal of a permit to be granted, all criteria applicable to the issuance of a permit must be met. The disqualifying factors set forth in § 13.21(c) of this part are also applicable to renewal of a permit.

(c) *Continuation of permitted activity.* Any person holding a valid renewable permit, who has complied with the provisions of this section, may continue such activities as were authorized by his expired permit until his renewal application is acted upon.

(d) *Denial.* The issuing office shall deny renewal of a permit to any permittee who fails to meet the issuance criteria set forth in § 13.21 of this part, or in any part(s) or section(s) specifically governing the activity for which renewal is requested.

§ 13.23 Amendment of permits.

(a) *Permittee's request.* Where circumstances have changed so that a permittee desires to have any term or condition of his permit modified, he must submit in writing full justification and supporting information in conformance with the provisions of this part and the part under which the permit has been issued or requested.

(b) *Service reservation.* The Service reserves the right to amend any permit for just cause at any time during its term.

(c) *Change of name or address.* A permittee is not required to obtain a new permit if there is a change in the legal individual or business name, or in the mailing address of the permittee, provided, that the permittee notifies the issuing office within 10 calendar days of the change. This provision does not authorize any change in location of the conduct of the permitted activity when

approval of the location is a qualifying condition of the permit.

§ 13.24 Right of succession by certain persons.

(a) Certain persons, other than the permittee, are granted the right to carry on a permitted activity for the remainder of the term of a current permit provided they comply with the provisions of paragraph (b) of this section. Such persons are the following:

(1) The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee; and

(2) A receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(b) In order to secure the right provided in this section, the person or persons desiring to continue the activity shall furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity.

(c) Any person granted authority to carry on a permitted activity under this section is limited to the activity specifically authorized by the permit.

§ 13.25 Permits not transferable; agents.

(a) Permits issued under this part are not transferable or assignable. Some permits authorize certain activities in connection with a business or commercial enterprise and in the event of any lease, sale, or transfer of such business entity, the successor must obtain a permit prior to continuing the permitted activity. However, certain limited rights of succession are provided in § 13.24.

(b) Except as otherwise stated on the face of a permit, any person who is under the direct control of the permittee, or who is employed by or under contract to the permittee for the purposes authorized by the permit, may carry out the activity authorized by the permit.

§ 13.26 Discontinuance of permit activity.

When a permittee, or any successor to a permittee as provided for by § 13.24, discontinues activities authorized by a permit, the permittee shall within 30 calendar days of the discontinuance return the permit to the issuing office together with a written statement surrendering the permit for cancellation. The permit shall be deemed void and cancelled upon its receipt by the issuing office. No refund of any fees paid for issuance of the permit or for any other fees or costs associated with a permitted activity shall be made when a permit is surrendered for cancellation for any reason prior to the expiration date stated on the permit face.

§ 13.27 Permit suspension or revocation.

The privilege of exercising some or all permit authority may be suspended, or a permit may be revoked at any time prior to expiration of the permit.

(a) *Criteria for suspension.* A permit may be suspended for any of the following reasons:

(1) Change in the statute or regulations authorizing the permit; or,

(2) Change in the population status of the wildlife or plants that are the subject of the permit; or,

(3) Violation of any permit condition by a permittee, or any person exercising the authority of the permit, including failure to pay in full all fees associated with the permit or the permitted activity; or

(4) Any violation by the permittee, or any person exercising the authority of the permit, of any Federal or State statute or regulation governing conduct of activities with respect to the wildlife or plants that are the subject of the permit.

(b) *Criteria for revocation.* A permit may be revoked for the following reasons:

(1) Change in the statute or regulation authorizing the permit; or

(2) Change in the population status of the wildlife or plant that are the subject of the permit; or

(3) Conviction, entry of a plea of guilty or nolo contendere, or assessment of a civil or criminal penalty for a violation of any Federal or State statute or regulation governing conduct of activities with respect to the wildlife or plants that are the subject of the permit; or

(4) The permittee becomes disqualified under § 13.21(c) of this part.

(c) *Procedure for suspension of revocation.* (1) When there are grounds for suspending or revoking a permit the issuing official shall serve the permittee with a written notice of proposed suspension or revocation by certified or registered mail. This notice shall identify the permit to be suspended or revoked, the reason(s) for such suspension or revocation, the proposed disposition of the wildlife, if any, and inform the permittee of the right to object to the proposed action. Such notice of proposed suspension or revocation may be amended at any time by the issuing official.

(2) Upon receipt of a notice of proposed revocation or suspension the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 30 calendar days of the date of the notice of proposal, must state the reasons why the permittee objects to the proposed action, and may include any supporting documentation.

(3) A decision on the revocation or suspension shall be made within 45 days after the end of the objection period, and issuing office shall notify the permittee in writing of its decision and the reasons therefor, together with the information concerning the right to request reconsideration and the procedures for requesting reconsideration.

§ 13.28 Review procedures.

(a) *Request for reconsideration.* Any person may request reconsideration of an action under this part if that person is one of the following:

(1) An applicant for a permit who has received written notice of denial;

(2) An applicant for renewal of a permit who has received written notice that a renewal is denied;

(3) A permittee who has had a permit amended, suspended, or revoked, except for those actions which are required by changes in statutes or regulations, or are emergency changes of limited applicability for which an expiration date is set within 90 days of the date of the permit change; or

(4) A permittee who has a permit issued or renewed but has not been granted authority by the permit to perform all activities requested in the application, except when the activity requested is one for which there is no lawful authority to issue a permit.

(b) *Method of requesting reconsideration.* Any person requesting reconsideration of an action under this part must comply with the following criteria:

(1) Any request for reconsideration shall be in writing, signed by the person requesting reconsideration or by the legal representative of that person, and shall be submitted to the issuing office.

(2) The request for reconsideration shall be submitted to the issuing office and must be received by that office within 45 calendar days of the date of notification of the decision for which reconsideration is being requested.

(3) The request for reconsideration shall state the decision for which reconsideration is being requested and shall state the reason(s) for the reconsideration, including presenting any new information or facts pertinent to the issue(s) raised by the request for reconsideration.

(4) The request for reconsideration shall contain a certification in substantially the same form as that provided by § 13.12(a)(5). If a request for reconsideration is received that does not contain such certification, but is

otherwise timely and appropriate, it shall be held and the person submitting the request shall be given written notice of the need to submit the certification within 15 calendar days of the date of such notification. Failure to submit certification shall result in the request being rejected as insufficient in form and content.

(c) *Inquiry by the Service.* The Service may institute a separate inquiry into the matter under consideration.

(d) *Determination to grant or deny a request for reconsideration.* A decision shall be made within 45 calendar days of receipt of the request for reconsideration, and the issuing office shall notify the permittee in writing of its decision and the reasons therefore, together with the information concerning the right to appeal and the procedures for making an appeal.

(e) *Appeal.* A person who has received an adverse decision following submission of a request for reconsideration, and who objects to that adverse decision, may submit a written appeal to the Regional Director for the region in which the issuing office is located, or to the Director for offices which report directly to the Director, within 15 calendar days of notification of the decision. The appeal shall state the reason(s) and issue(s) upon which the person bases the appeal and contain any additional evidence or arguments to support the appeal.

(f) *Decision on appeal.*

(1) Before a decision is made concerning the appeal the appellant may present oral arguments before the Regional Director or the Director, if appropriate, if such official judges oral arguments necessary to clarify issues raised in the written record.

(2) A written decision setting forth the decision and the reasons for the decision on the appeal shall be made within 60 calendar days of the date the appeal is received, unless extended for good cause and the appellant is notified in writing.

(3) The decision of the Regional Director or the Director shall constitute the final administrative decision of the Department to the Interior."

9. Revise § 13.41 to read as follows:

§ 13.41 Humane conditions.

Any live wildlife possessed under a permit must be maintained under humane conditions.

§ 13.46 [Amended]

10. Section 13.46 *Maintenance of records* is amended to remove the third and fourth sentences and substitute a sentence reading as follows: "Such records shall be legibly written or reproducible in English and shall be maintained for five years from the date of expiration of the permit."

11. Sections 13.48, 13.49, and 13.50 are added to read as follows:

§ 13.48 Compliance with conditions of permit

Any person holding a permit under Subchapter B and any person acting under the authority of such permit must comply with all conditions of the permit and with all applicable laws and regulations governing the permitted activity.

§ 13.49 Surrender of permit.

Any person holding a permit under Subchapter B shall surrender such permit to the issuing office upon notification that the permit has been suspended or revoked by the Service.

§ 13.50 Acceptance of liability.

Any person holding a permit under Subchapter B assumes all liability and responsibility for the conduct of any activity conducted under the authority of such permit.

Subpart E [Removed]

12. Subpart E—Violations of the permit, consisting of § 13.51, is removed.

PART 21—MIGRATORY BIRD PERMITS

1. The authority citation for Part 21 is revised to read as follows:

Authority: 16 U.S.C. 704; 16 U.S.C. 712.

2. Section 21.1 is revised to read as follows:

§ 21.1 Purpose of regulations.

The regulations contained in this Part supplement the general permit regulations of Part 13 of this subchapter with respect to permits for the taking, possession, transportation, sale, purchase, barter, importation, exportation, and banding or marking, of migratory birds. This part also provides certain exceptions to permit requirements for public, scientific, or educational institutions, and establishes depredation orders which provide limited exceptions to the Migratory Bird Treaty Act (16 U.S.C. 703–711).

3. Section 21.2 is amended by revising paragraph (a) as follows, and removing paragraph (d).

§ 21.2 Scope of regulations.

(a) Migratory birds, their parts, nests, or eggs, lawfully acquired prior to the effective date of Federal protection under the Migratory Bird Treaty Act (16 U.S.C. 703–711) may be possessed or transported without a permit, but may not be imported, exported, purchased, sold, bartered, or offered for purchase, sale, or barter, and all shipments of such birds must be marked as provided by Part 14 of this subchapter: *Provided,* No exemption from any statute or regulation shall accrue to any offspring of such migratory birds.

* * * * *

4. Section 21.3 is amended by adding, alphabetically, to its existing language the following definition of "sensitive raptor":

§ 21.3 Definitions.

* * * * *

"Sensitive raptor" means any migratory bird of the species *Falco peregrinus* (peregrine falcon), *Falco rusticolus* (gyrfalcon), *Parabuteo unicinctus* (Harris hawk), or *Falco mexicanus* (prairie falcon), or any individual of any interspecific hybridization when one or both parents is of any of the above species or is a hybrid or offspring of one or more of the above species."

5. Section 21.11 is revised to read as follows:

§ 21.11 General permit requirements.

No person shall take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase or barter, any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and Part 13, or as permitted by regulations in this part or Part 20 (the hunting regulations).

6. Section 21.12 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 21.12 General exceptions to permit requirements.

* * * * *

(b) * * * Records shall be maintained or reproducible in English on a calendar year basis and shall be retained for a period of five (5) years following the end of the calendar year covered by the records.

7. Add new § 21.21 to read as follows:

§ 21.21 Import and export permits.

(a) *Permit requirement.* (1) Except for migratory game birds imported in accordance with the provisions of Subpart G of Part 20 of this Subchapter B, an importation permit is required before any migratory birds, their parts, nests, or eggs may be imported.

(2) An exportation permit is required before any migratory birds, their parts, nests, or eggs may be exported: *Provided,* that captive-reared waterfowl that are marked in compliance with the

provisions of § 21.13(b) may be exported without a permit.

(b) *Application procedures.* Applications for permits to import or export migratory birds shall be submitted to the appropriate issuing officer (see §§ 10.22 and 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Whether importation or exportation is requested;

(2) Species and numbers of migratory birds or their parts, nests, or eggs to be imported or exported;

(3) Name and address of the person from whom such birds are being imported or to whom they are being exported;

(4) Purpose for which importation or exportation is being made;

(5) Estimated date of arrival or departure of shipment, and the port of entry or exit through which the shipment will be imported or exported; and

(6) Federal and State permit numbers and type of permits authorizing possession, acquisition, or disposition of such birds, their parts, nests, or eggs where such a permit is required.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, import and export permits shall be subject to any requirements set forth in the permit.

(d) *Term of permit.* The term of an import or export permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

8. Section 21.22 is amended as follows:

a. In paragraph (b) revise the zip code to read "20708."

b. In paragraph (c)(1) revise the reference to "Bureau" to read "Service".

c. In paragraph (c)(2) revise the zip code to read "20708."

d. Paragraph (d) is revised to read as set out below:

§ 21.22 Banding or marking permits.

* * * * *

(d) *Term of permit.* A banding or marking permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

9. Section 21.23 is amended as follows:

a. In paragraph (b) introductory text, review the reference to "Special Agent in Charge" to read "issuing office".

b. Paragraph (d) is revised to read as set out below:

§ 21.23 Scientific collecting permits

* * * * *

(d) *Term of permit.* A scientific collecting permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

10. Section 21.24 is amended as follows:

a. In paragraph (b) introductory text, revise the reference to "Special Agent in Charge" to read "issuing office".

b. Paragraph (e) is revised to read as set out below:

§ 21.24 Taxidermist permits.

* * * * *

(e) *Term of permit.* A taxidermist permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

11. Section 21.25 is amended as follows:

a. In paragraph (b) introductory text, revise the reference to "Special Agent in Charge" to read "issuing office".

b. Paragraph (d) is revised to read as set out below:

§ 21.25 Waterfowl sale and disposal permits.

* * * * *

(d) *Terms of permit.* A waterfowl sale and disposal permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

12. Section 21.27 is amended as follows:

a. Revise the introductory text and paragraph (a) as set out below.

b. In paragraph (b) introductory text, revise the reference to "Special Agent in Charge" to "issuing office".

c. Paragraphs (c) introductory text and (c)(1) are revised as set out below.

d. Paragraphs (c)(3), (4), (5) and (6) are added as set out below.

e. Paragraph (d) is revised as set out below.

§ 21.27 Special purpose permits.

Subject to the discretion of the issuing office and the policies of the Service, permits may be issued for special purpose activities related to migratory birds, their parts, nests or eggs, which are otherwise outside the scope of the standard form permits of this part. A special purpose permit for migratory bird related activities not otherwise provided for in this part may be issued to an applicant who submits a written application containing the general information and certification required by Part 13 and makes a sufficient showing of benefit to the migratory bird resource, important research reasons, reason for human concern for individual birds, or other compelling justification.

(a) *Permit requirement.* A special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests or eggs for any purpose not covered by the standard form permits of this part. In addition, a special purpose permit is required before any person may sell, purchase, or barter captive-bred, migratory game birds, other than waterfowl, that are marked in compliance with paragraph (c)(3) of this section.

* * * * *

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, special purpose permits shall be subject to the following conditions:

(1) Permittees shall maintain adequate records describing the conduct of the permitted activity, the numbers and species of migratory birds acquired and disposed of under the permit, and inventorying and identifying all migratory birds held on December 31 of each calendar year. Records shall be maintained at the address listed on the permit; shall be in, or reproducible in, English; and, shall be available for inspection by Service personnel during regular business hours. A permittee may be required by the terms of the permit to file with the issuing office an annual report of operation. Annual reports, if required, shall be filed no later than January 31 of the calendar year following the year for which the report is required. Reports, if required, shall describe permitted activities, numbers and species of migratory birds acquired and disposed of, and shall inventory and identify all migratory birds possesed under the special purpose permit on December 31 of the reporting year.

* * * * *

(3) All live, captive-bred, migratory game birds possessed under authority of a valid special purpose permit shall have been, prior to six (6) weeks of age, physically marked by banding of one metatarsus with a seamless metal band.

(4) No captive-bred, migratory game bird may be sold or bartered unless marked in accordance with paragraph (c)(3) of this section.

(5) No permittee may take, purchase, receive or otherwise acquire, sell, barter, transfer, or otherwise dispose of any captive-bred, migratory game bird unless such permittee submits a Service form 3-186A (Migratory Bird Acquisition/Disposal Report), completed in accordance with the instructions on the form, to the issuing office within five (5) calendar days of such transaction.

(6) No permittee, who is authorized to sell or barter migratory game birds pursuant to a permit issued under this section, may sell or barter such birds to any person unless that person is authorized to purchase and possess such migratory birds under a permit issued pursuant to this part and Part 13 or as permitted by regulations in this part.

(d) *Term of permit.* A special purpose permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

13. Section 21.28 is revised to read as follows:

§ 21.28 Falconry Permits.

(a) *Permit requirements.* A falconry permit is required before any person may take, possess, transport, sell, purchase, barter, or offer to sell, purchase, or barter raptors for falconry purposes.

(b) *Application procedures.* A applicant who wishes to practice falconry in a State which meets Federal falconry standards as provided by § 21.29 must submit a written application for a falconry permit to the issuing office designated by § 13.11(b) of this subchapter. Each application must contain the general information and certification required by § 13.12(a) of this subchapter plus a copy of a valid State falconry permit issued to the applicant.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section, the Director will decide whether a permit should be issued. In making a decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, whether the applicant has a valid State falconry permit issued by a State in conformance with the Federal falconry standards set out in § 21.29.

(d) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) A permittee may not take, transport or possess a golden eagle (*Aquila chrysaetos*) unless authorized in writing under § 22.24 of this subchapter.

(2) A permit issued under this section is not valid unless the permittee has a valid State falconry permit issued by a State which has laws or regulations that meet or exceed the Federal falconry standards set forth in § 21.29.

(3) A permittee may not take, possess, transport, sell, purchase, barter or transfer any raptor for falconry purposes except under authority of a Federal falconry permit issued under this section and in compliance with the Federal falconry standards set forth in § 21.29.

(4) No permittee may take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless such permittee submits a form 3–186A (Migratory Bird Acquisition/Disposal Report), completed in accordance with the instructions on the form, to the issuing office within five (5) calendar days of any such transaction.

(5) No raptor may be possessed under authority of a falconry permit unless the permittee has a properly completed form 3–186A for each bird possessed, except as provided in paragraph (d)(4) of this section.

(6) A raptor possessed under authority of a falconry permit may be temporarily held by a person who is otherwise authorized to possess raptors, other than the permittee, only if the raptor is accompanied at all times by the properly completed form 3–186A designating the permittee as the possessor of record and a signed, dated statement from the permittee authorizing the temporary possession.

(7) A permittee may not take, possess, or transport any sensitive raptor unless such bird is banded either by a seamless, numbered band or by a permanent, nonreuseable band provided by the Service:

(i) Any sensitive raptor taken from the wild must be reported to the issuing office within five (5) days of taking and must be banded by a permanent, nonreuseable band supplied by the Service. No raptor removed from the wild may be banded with a seamless, numbered band.

(ii) The loss or removal of any band must be reported to the issuing office within three (3) calendar days of the loss. The lost band must be replaced by a permanent, nonreuseable band supplied by the Service. A form 3–186A must be filed in accordance with paragraph (d)(4) of this section recording loss of the band and rebanding.

(8) A permittee may not sell, purchase, barter, or offer to sell, purchase, or barter any raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the Service.

(9) A permittee may not receive or otherwise acquire from, may not transfer or otherwise dispose of to, and may not loan to or temporarily place with, another person, any raptor unless that person is authorized to acquire, possess, and dispose of such raptors under a valid permit issued pursuant to this part and Part 13 or as permitted by regulations in this part.

(10) A permittee may not propagate raptors without prior acquisition of a valid raptor propagation permit issued under § 21.30.

(e) *Term of permit.* A Federal falconry permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed (3) years from the date of issuance or renewal.

14. Section 21.29 is amended as follows.

a. Paragraph (a) is revised as set out below.

b. Paragraph (c) is removed and paragraph (d) is redesignated as paragraph (c) and revised as set out below.

c. Paragraph (e) is redesignated as paragraph (d).

d. A new paragraph (e) is added as set out below.

e. Paragraphs (f), (g) and (h) are removed.

f. Paragraphs (i) and (j) are redesignated as paragraphs (f) and (g).

g. Newly redesignated paragraph (g)(4) is revised as set out below.

h. Paragraph (k) is removed.

§ 21.29 Federal falconry standards.

(a) *General.* No person may take, possess, transport, sell, purchase, barter, or offer to sell, purchase, or barter any raptor for falconry purposes in any State which does not allow the practice of falconry by law or regulations which meet or exceed the Federal falconry standards set forth in this section: *Except,* a Federal falconry permittee may possess and transport for falconry purposes otherwise lawfully possessed raptors through States which do not meet Federal falconry standards so long as the raptors remain in transit and in interstate commerce.

* * * * *

(c) *Permit.* State laws or regulations shall provide that a valid State falconry

permit from either that State or another State meeting or exceeding Federal falconry standards of this section is required before any person may take, possess, transport, sell, purchase, barter or offer to sell, purchase, or barter any raptor for falconry purposes or practice falconry in that State.

* * * * *

(e) *Marking.* All sensitive raptors possessed for purposes of falconry, must be marked in accordance with the following provisions:

(1) Any sensitive raptor, except a captive-bred raptor lawfully marked by a numbered, seamless band issued by the Service, must be banded by a permanent, nonreuseable, numbered band issued by the Service.

(2) Any sensitive raptor possessed for purposes of falconry must be banded at all times in accordance with these standards. Loss or removal of any band must be reported to the issuing office within three (3) calendar days of the loss and must be replaced with a permanent, nonreuseable, numbered band supplied by the Service.

* * * * *

(g) * * *

(4) A raptor possessed under authority of a falconry permit may be temporarily held by a person who is otherwise authorized to posses raptors, other than the permittee, only if the raptor is accompanied at all times by the properly completed form 3–186A designating the permittee as the possessor of record and a signed, dated statement from the permittee authorizing the temporary possession.

* * * * *

15. Section 21.30 is amended as follows:

a. Paragraph (a) is revised as set out below.

b. Paragraph (d)(1) is removed and paragraphs (d)(2) through (d)(5) are redesignated as paragraphs (d)(1) through (d)(4).

c. Newly redesignated paragraph (d)(2) is revised as set out below.

d. Paragraph (d)(3)(iii) is added.

e. A new paragraph (d)(5) is added.

f. Paragraph (d)(6) is revised.

g. Paragraphs (d)(7) through (d)(11) are redesignated as (d)(11) through (d)(15).

h. New paragraphs (d)(7) through (d)(10) are added.

i. Newly redesignated paragraph (d)(13)(i) is amended by adding, following the word "Director" in each place it appears, the phrase "and the director of the wildlife conservation department of the State in which release to the wild is proposed".

j. Paragraph (e) is revised as set out below.

§ 21.30 Raptor propagation permits.

(a) *Permit requirement.* A raptor propagation permit is required before any person may take, possess, transport, sell, purchase, barter, or offer to sell, purchase or barter any raptor, raptor egg, or raptor semen for propagation purposes.

* * * * *

(d) * * *

(2) *Marking requirement.* Unless otherwise specifically exempted, every raptor possessed for purposes of raptor propagation, including all progeny produced pursuant to the permitted activity, must be banded in accordance with the following provisions:

(i) Except for captive-bred raptors lawfully marked by a seamless, numbered band provided by the Service, any raptor possessed for purposes of raptor propagation, shall be banded with a permanent, nonreuseable, numbered band issued by the Service.

(ii) Unless specifically exempted by the terms of the raptor propagation permit, each captive-bred raptor produced under authority of a raptor propagation permit shall be banded within two (2) weeks of hatching with a numbered, seamless band provided by the Service, placed on the raptor's leg (metatarsus). In marking captive-bred raptors, permittees:

(A) Shall used a band with an opening (inside diameter) which is small enough to prevent its removal when the raptor is fully grown without causing serious injury to the raptor or damaging the band's integrity or one-piece construction;

(B) May band a raptor with more than one size band when the potential diameter of the raptor's leg at maturity cannot be determined at the time of banding; and,

(C) Shall remove all but one band from any raptor with more than one band before the raptor is five (5) weeks of age and return all bands removed to the issuing office.

(iii) No raptor taken from the wild, produced from an egg taken from the wild, or produced from an egg from any source other than bred in captivity under authority of a raptor propagation permit may be banded with a numbered, seamless band issued by the Service.

(iv) No permittee under this section may band any raptor with any band issued or authorized by the Service unless that raptor is lawfully possessed by the permittee.

(3)* * *

(iii) No raptor or raptor egg may be taken from the wild except in accordance with State law.

* * * * *

(5) *Use of Service form 3–186A.* No permittee may take, purchase, receive, or otherwise acquire, sell, trade, barter, transfer, or otherwise dispose of any raptor unless such permittee submits a form 3–186A (Migratory Bird Acquisition/Disposal Form), completed in accordance with the instructions on the form, to the issuing office within five (5) calendar days of any such transaction.

(6) *Documentation of lawful possession.* No raptor may be possessed under authority of a raptor propagation permit unless the permittee has in possession a properly signed and completed form 3–186A to demonstrate lawful acquisition of each raptor possessed, except as provided in paragraph (d)(5) of this section.

(7) *Temporary possession.* A raptor possessed under authority of a raptor propagation permit may be temporarily held by a person who is otherwise authorized to possess raptors, other than the permittee, only if the raptor is accompanied at all times by the properly completed form 3–186A designating the permittee as the possessor of record and a signed, dated statement from the permittee authorizing the temporary possession.

(8) *Sale, purchase, barter.* A permittee may not sell, purchase, barter, or offer to sell, purchase, or barter any raptor unless such raptor is lawfully marked on the metatarsus by a seamless, numbered band supplied by the Service.

(9) *Transfer to another.* A permittee may not receive or otherwise acquire from, may not transfer or otherwise dispose of to, and may not loan to or temporarily place with, another person, any raptor unless the person is authorized under this part to dispose of or receive raptors.

(10) *Use in falconry.* A permittee may use a raptor possessed for propagation in the sport of falconry only if such use is designated in both the propagation permit and the permittee's falconry permit.

* * * * *

(e) *Term of permit.* A raptor propagation permit issued or renewed under this Part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

Dated: September 29, 1987.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

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LIST OF PUBLIC LAWS

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H.R. 2325/Pub. L. 100-201

To authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas. (Dec. 22, 1987; 101 Stat. 1328; 1 page) Price: $1.00

H.J. Res. 395/Pub. L. 100-202

Making further continuing appropriations for the fiscal year 1988, and for other purposes. (Dec. 22, 1987; 101 Stat. 1329)

H.R. 3545/Pub. L. 100-203

Omnibus Budget Reconciliation Act of 1987. (Dec. 22, 1987; 101 Stat. 1330)

H.R. 1777/Pub. L. 100-204

Foreign Relations Authorization Act, Fiscal Years 1988 and 1989. (Dec. 22, 1987; 101 Stat. 1331; 102 pages) Price: $3.00

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[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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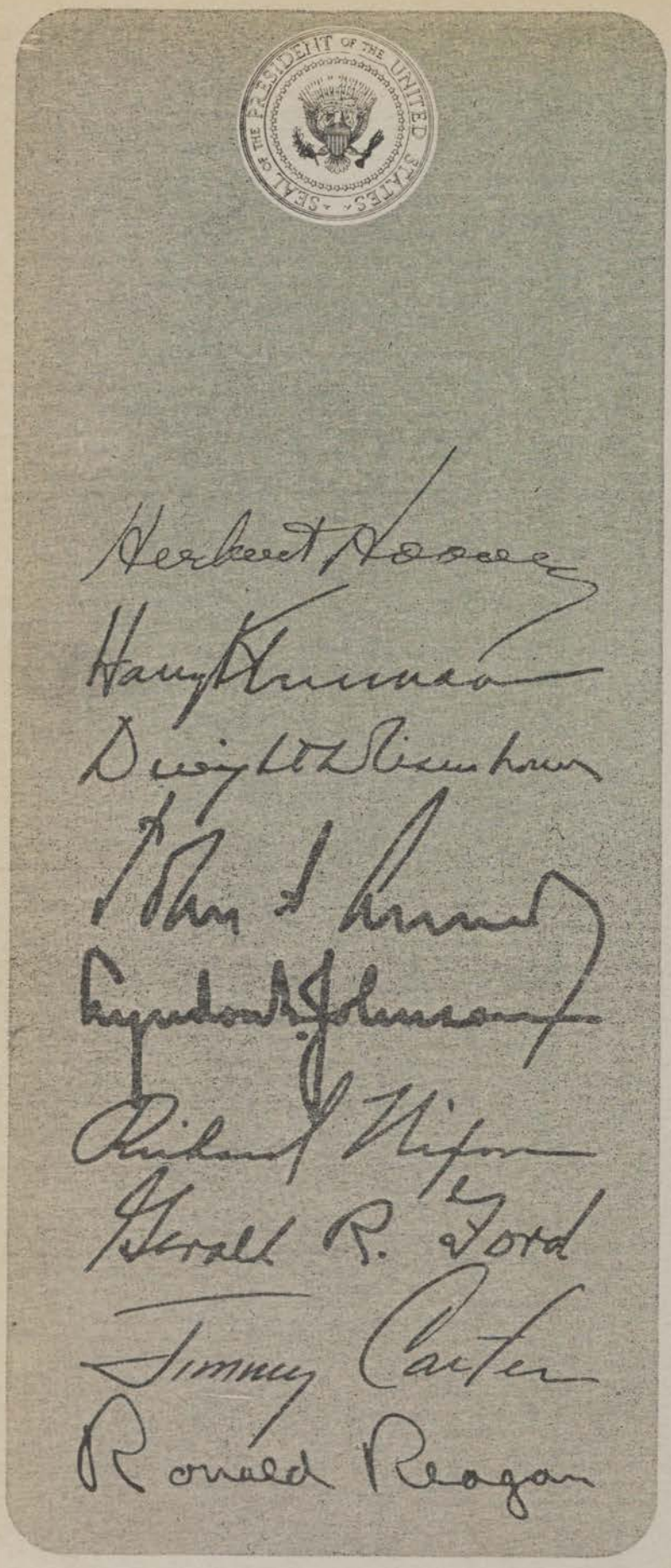

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